

THE CONFERENCE ON FAIR USE

**FINAL REPORT TO THE COMMISSIONER
ON THE CONCLUSION OF THE
CONFERENCE ON FAIR USE**

NOVEMBER 1998

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VOLUME ONE

INTRODUCTION

In 1993, President Clinton formed the Information Infrastructure Task Force (IITF) to articulate and implement the Administration's vision for the National Information Infrastructure (NII), and established the U.S. Advisory Council on the National Information Infrastructure within the Department of Commerce to advise the Secretary of Commerce on a national strategy for promoting the development of the NII.¹ The IITF is chaired by the Secretary of Commerce and consists of high-level representatives of the Federal agencies that play a role in advancing the development and application of information technologies. Guided by the principles for government action described in *NII Agenda for Action*² and *GII Agenda for Cooperation*,³ the participating agencies worked with the private sector, public interest groups, Congress, and State and local governments to develop comprehensive telecommunications and information policies and programs that will promote the development of the NII and best meet the needs of the country.

The IITF is organized into three committees: the Telecommunications Policy Committee, the Committee on Applications and Technology, and the Information Policy Committee. The Working Group on Intellectual Property Rights (hereinafter "Working Group"), chaired by Assistant Secretary of Commerce and Commissioner of Patents and Trademarks Bruce A. Lehman, was established within the Information Policy Committee to examine the intellectual property implications of the NII and to make recommendations on any appropriate changes to U.S. intellectual property law and policy.⁴

Following a public hearing in November 1993,⁵ and review and analysis of both solicited written comments and extensive public comments submitted, the Working Group released a preliminary draft of its report ("Green Paper") on July 7, 1994.⁶ Following release

¹ See Exec. Order No. 12864, 3 C.F.R. 634 (1993).

² Information Infrastructure Task Force, National Telecommunications and Information Administration, *National Information Infrastructure: Agenda for Action* (1993).

³ Information Infrastructure Task Force, *Global Information Infrastructure: Agenda for Cooperation* (1995).

⁴ For list of participating agencies, see Information Infrastructure Task Force, Working Group on Intellectual Property Rights, *Intellectual Property and the National Information Infrastructure: The Report of the Working Group on Intellectual Property Rights* (1995) (hereinafter "WHITE PAPER") at App. 3.

⁵ See Request for Comments on Intellectual Property Issues Involved in the National Information Infrastructure Initiative, 58 Fed. Reg. 53,917 (1993).

⁶ See Information Infrastructure Task Force, Working Group on Intellectual Property Rights, *Intellectual Property and the National Information Infrastructure: A Preliminary Draft of the Report of the Working Group on Intellectual Property Rights* (1994) (hereinafter "GREEN PAPER").

of the Green Paper, the Working Group heard testimony from the public in four days of hearings in Chicago, Los Angeles, and Washington, D.C., in September 1994.⁷

The Green Paper expressed significant concerns over the ability of the limitations on copyright owners' exclusive rights, particularly those contained in the fair use provisions of the Copyright Act, to provide the public with adequate access to copyrighted works transmitted digitally.⁸ While recognizing that the principles underlying the guidelines for library and educational use of printed matter and music should still apply, the Working Group believed it would be "difficult and, perhaps, inappropriate, to apply the specific language of some of those guidelines in the context of digital works and on-line services."⁹

The Working Group convened a Conference on Fair Use (CONFU) to bring together copyright owner and user interests to discuss fair use issues and, if appropriate and feasible, to develop guidelines for fair uses of copyrighted works by librarians and educators.¹⁰ At the time of the issuance of the Report of the Working Group on Intellectual Property Rights (hereinafter "White Paper"),¹¹ in early September 1995, CONFU was still meeting and had not concluded its work.

Meeting regularly in public sessions, CONFU grew from the forty groups which were invited initially to participate in the first meeting on September 21, 1994, to the approximately one hundred organizations participating as of May 1998.¹² The Working Group has facilitated meetings and coordinated the flow of information for CONFU.¹³ From September 1994 to May 1997, a five-person Steering Committee, selected by the participants, acted as the formal

⁷ See Notice of Hearings and Request for Comments on Preliminary Draft of the Report of the Working Group on Intellectual Property Rights, 59 Fed. Reg. 42,819 (1994); Extension of Deadline for Comments on Preliminary Draft of the Report of the Working Group on Intellectual Property Rights, 59 Fed. Reg. 50,222 (1994).

⁸ See GREEN PAPER at 133.

⁹ *Id.* at 134.

¹⁰ See Notice of First Meeting of Conference on "Fair Use" and the National Information Infrastructure (NII) 59 Fed. Reg. 46,823 (1994).

¹¹ See Information Infrastructure Task Force, Working Group on Intellectual Property Rights, *Intellectual Property and the National Information Infrastructure: The Report of the Working Group on Intellectual Property Rights* (1995) (hereinafter "WHITE PAPER").

¹² See list of CONFU Participants *infra* Appendix A.

¹³ This was done by having an attorney-advisor in the Office of Legislative and International Affairs of the Patent and Trademark Office act as an executive secretary for CONFU. From September 1994 until July 1995, this was Christopher A. Meyer, and from September 1995 until the present, Peter N. Fowler has acted in that capacity and authored this report.

structure guiding the CONFU process.¹⁴ At the meeting in May 1997, it was agreed that the Steering Committee be expanded to eleven members,¹⁵ and that the CONFU process would conclude with a final session in May 1998. At the final meeting in May 1998, it was agreed that a Final Report on CONFU be issued.

BACKGROUND

As the White Paper noted, “intellectual property is a subtle and esoteric area of the law that evolves in response to technological change.”¹⁶ The Copyright Act¹⁷ was enacted in response to “significant changes in technology [that had] affected the operation of the copyright law.”¹⁸ It specifies that certain uses of copyrighted works are outside the control of the copyright owner, and it provides a number of exceptions to the “exclusive” rights of copyright owners. While many regard these exceptions as rights of users, they are, technically, outright exemptions from liability or affirmative defenses to what would otherwise be acts of infringement.

The most significant and, perhaps, murky of the limitations on a copyright owner’s exclusive rights is the doctrine of fair use.¹⁹ Though now embodied in statutory language, the doctrine of fair use is rooted in more than 200 years of judicial decisions. Fair use is an affirmative defense to an action for copyright infringement. It is potentially available with respect to all manner of unauthorized uses of all types of works in all media. When the fair use doctrine applies to a specific use of a work, the person making fair use of the work does

¹⁴ The Steering Committee members were: Stan Cahill of Public Broadcasting System, Carol C. Henderson of the American Library Association, Mary Levering of the U.S. Copyright Office, Carol A. Risher of the Association of American Publishers, and Mark Traphagen of Software Publishers Association. In 1995, Adam M. Eisgrau replaced Ms. Henderson, and Stan Cahill became less active, on the Steering Committee.

¹⁵ The members of the reconstituted Steering Committee were as follows: Chris Dalziel, Instructional Communications Council; Adam M. Eisgrau, American Library Association; Mary Levering, U.S. Copyright Office; Lisa Livingston, Consortium of College and University Media Centers; Victor S. Perlman, American Society of Media Photographers; Carol Risher, Association of American Publishers; Judith M. Saffer, BMI; Mark Traphagen, Software Publishers Association; Laila van Eyck, National Association of State Universities and Land-Grant Colleges; John C. Vaughn, Association of American Universities; and Patricia Williams, American Association of Museums.

¹⁶ See WHITE PAPER at 7.

¹⁷ The Copyright Act of 1976, as amended, is codified at 17 U.S.C. § 101 *et seq.* (1994). Hereinafter, the Act is cited as “17 U.S.C. § ____.”

¹⁸ See H.R. REP. NO. 1476, 94th Cong., 2d Sess. 47 (1976), reprinted in 1976 U.S.C.C.A.N. 5659 (hereinafter HOUSE REPORT).

¹⁹ See 17 U.S.C. § 107; see also, 3 NIMMER ON COPYRIGHT § 13 (1993). For websites devoted to copyright and fair use issues, see, e.g., Stanford University Copyright and Fair Use Site at: <http://fairuse.stanford.edu/>; Bibliography, *infra* at 129.

not need to seek permission from the copyright owner or to compensate the copyright owner for the use of the work.

Before examining the work of CONFU, it is useful to examine the statutory language concerning fair use. Section 107 of the Copyright Act provides:

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section [sic], for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include --

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.²⁰

The copyright law allows copyright owners to exercise the rights granted to them, to license their rights, or to give them away. Some copyright owners are not motivated by any commercial considerations. Those creators and authors who wish to dedicate their works to the public domain may, of course, do so notwithstanding the availability of protection under the Copyright Act. Nothing in the law prevents those who do not wish to claim copyright from waiving their rights and allowing unrestricted reproduction, distribution and other uses of their works. As the White Paper notes, "[c]opyright protection is not an obstacle in the way of the success of the NII; it is an essential component. Effective copyright protection is a fundamental way to promote the availability of works to the public."²¹

²⁰ 17 U.S.C. §107.

²¹ See WHITE PAPER at 16.

While the NII and other digital technology present myriad opportunities for fair uses of works,

[i]t is reasonable to expect that courts would approach claims of fair use in the context of the NII just as they do in 'traditional' environments. Commercial uses that involve no 'transformation' by users and harm actual or potential markets will likely always be infringing, while non-profit educational transformative uses will likely often be fair. Between these two extremes, courts will have to engage in the same type of fact-intensive analysis that typifies fair use litigation and frustrates those who seek a 'bright line' clearly separating the lawful from the unlawful.²²

Given the lack of such bright lines, interested parties, including the user communities, copyright owners, and those who act in an intermediary role, such as libraries, educators, and publishers, have over the years developed voluntary guidelines to address practical use situations. The fair use,²³ library copying,²⁴ and educational use²⁵ provisions of the Copyright Act have been the subject of four sets of guidelines for libraries and educational institutions, to which affected parties have agreed. These various guidelines, while having no force of law, are contained at different places in legislative history. The current guidelines cover certain copying by and for teachers in the classroom context,²⁶ the copying of music for educational purposes,²⁷ the copying of relatively recent journal articles by one library for a patron of another,²⁸ and the off-air videotaping of educational broadcast materials.²⁹ The

²² See WHITE PAPER at 80.

²³ 17 U.S.C. § 107.

²⁴ 17 U.S.C. § 108.

²⁵ 17 U.S.C. § 110.

²⁶ See *Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions* (hereinafter "CLASSROOM GUIDELINES"), contained in HOUSE REPORT at 68-74, reprinted in 1976 U.S.C.C.A.N. 5681-88.

²⁷ See *Guidelines for Educational Use of Music*, contained in HOUSE REPORT at 70-71, reprinted in 1976 U.S.C.C.A.N. 5684-85.

²⁸ See *CONTU Guidelines on Photocopying Under Interlibrary Loan Arrangements*, contained in REPORT OF THE CONFERENCE COMMITTEE ON THE NEW COPYRIGHT LAW (H.R. No. 1733, 94th Cong., 2d Sess., at 71-73) reprinted in 1976 U.S.C.C.A.N. 5812-14.

²⁹ See *Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes*, contained in HOUSE REPORT ON PIRACY AND COUNTERFEITING AMENDMENTS (H.R. No. 495, 97th Cong., 1st Sess. at 8-9), reprinted in U.S. COPYRIGHT OFFICE, *Reproduction of Copyrighted Works by Educators and Librarians* (Circular 21) (1992) 26.

result has been, in certain circumstances, a quantitative gloss on the construction of fair use and library copying privileges.

I. THE CONFU PROCESS

The genesis of CONFU was the Green Paper's call for a "conference to bring together copyright owner and user interests to develop guidelines for fair uses of copyrighted works by and in public libraries and schools."³⁰ Forty organizations representing copyright owners, educators, and librarians were invited to submit statements that identified the issues that they believed CONFU should address, and that set out no more than three principles that participants believed should apply to educational and library fair use in the digital context.³¹ These statements were distributed to all participants and discussion of the proposed principles occurred at the first session of CONFU on September 21, 1994. The participants' proposed principles were subsequently grouped into several categories: fair use in general, policy concerns, media application, marketplace, licensing/transaction tracking, new guideline concerns, and browsing.³²

Participants were encouraged to follow the example of previous successful efforts to develop voluntary fair use guidelines -- the Classroom Guidelines in 1976,³³ and the National Commission on New Technological Uses of Copyrighted Works (hereinafter "CONTU"), which dealt with the issues raised by photocopiers and computers in 1978.³⁴

In addition, there was a recognition that the Consortium of College and University Media Centers (CCUMC), which had convened a working group composed of many of the same participants as CONFU, had begun in June 1994 a process to develop fair use guidelines for educational multimedia uses. While a parallel effort, the CCUMC multimedia working group was open to all CONFU participants, its progress reported at CONFU meetings, and its results, ultimately, were considered part of the CONFU process.

At three half-day meetings on October 21, 24, and 26, 1994, there was an initial effort to organize the discussion and work of CONFU by means of subgroupings of participants into library, elementary and secondary, and higher education subcommittees. These meetings

³⁰ See GREEN PAPER at 134.

³¹ See list of Organizations Submitting Statements *infra* Appendix B.

³² See Summary of Initial Proposed Principles *infra* Appendix C.

³³ See CLASSROOM GUIDELINES contained in HOUSE REPORT at 68-74, *reprinted in* 1976 U.S.C.C.A.N. 5681-88.

³⁴ See citation at *supra* n. 27.

identified a variety of new uses and issues for discussion. However, because they reflected the same copyright owner and user concerns, they crossed all organizational subgroupings; hence, this approach did not prove to be a useful organizing structure. Since individuals had volunteered to present short papers or reports on these discussion issues at future meetings, it was decided, rather, to meet in plenary sessions to hear and discuss the topic presentations. This process began in early December 1994.

The presentation and discussion of these topics and scenarios laid the foundation for informed discussion before participants turned to the subject of drafting various guidelines. The topic presentations and discussions allowed participants to decide which topics were appropriate for guidelines, and how to deal with them, if at all, in the process of drafting guidelines. Furthermore, the topic discussions allowed participants to decide which topics should be explored as scenarios and which were useful solely as background.

Following presentations on twenty-one different topics,³⁵ certain topics were selected for discussion of specific scenarios which would provide concrete examples of how schools and libraries might use copyrighted works under fair use and whether such uses were covered by current law. These scenarios, which included distance learning, multimedia, electronic reserves, visually impaired, transient copying, use of software in libraries, preservation, visual image archives, interlibrary loan/document delivery, downloading for personal use, and browsing,³⁶ provided a range of examples of what, in the opinions of the drafters of the scenarios, may or may not be considered fair use or, in the case of interlibrary loans, guidelines for Section 108. Subsequently, following further sessions devoted to topic and scenario discussions, and as a result of the extensive background discussions at monthly sessions, six working groups,³⁷ with appropriate representatives of rightsholders and educational and library users, emerged to draft and negotiate fair use guidelines in five specific areas and a statement of scenarios on the use of software in libraries.

In addition, two other topics were presented and discussed at these initial meetings: the concerns of the visually-impaired, and the need for digital preservation of materials. There was a consensus, following presentations and discussion, that these issues were best addressed in the context of legislative reform. This occurred in the case of the concerns of the visually-impaired community through enactment of Section 121 of the Copyright Act; and with explicit provisions in proposed legislation to authorize digital preservation of copyrightable materials.

³⁵ See Topic and Issue Paper Presenters *infra* Appendix D.

³⁶ See Topic Grid *infra* Appendix E.

³⁷ The working groups were: Digital Images, Distance Learning, Educational Multimedia, Electronic Reserve Systems, Interlibrary Loan/Document Delivery, and Software Use in Libraries.

The working groups met and negotiated throughout 1995 and most of 1996, running concurrently with monthly plenary sessions to discuss issues and drafts of voluntary guidelines with the entire group of participants. In addition, a number of individuals and organizations interested in nonprofit music education and music publishing met on April 26, 1996, at Columbia University, under the auspices of CONFU, to discuss whether current guidelines for educational uses of music needed revision in the digital environment.³⁸ The general consensus was that no change was needed at this time, but that music publishers, music educators, and music librarians would need to be aware of the guidelines being developed by CONFU, which might include uses of music in digital form.

As progress was being made in some areas and not in others, it was decided at the plenary session meeting on May 30, 1996, that a concerted effort would be made by all working groups to complete, if possible, the drafting of widely acceptable guidelines in light of a general consensus to end the CONFU plenary process by November 30, 1996. The multimedia working group stated at that time that should it reach agreement on fair use multimedia guidelines sooner, it would seek to have such voluntary guidelines included in legislative history.

On May 30, 1996, participants agreed to adopt for all sets of guidelines the uniform preamble,³⁹ which had been drafted and coordinated by Mary Levering, Associate Register for National Copyright Programs in the U.S. Copyright Office. At the CONFU session on September 6, 1996, participants agreed that a brief factual report of the CONFU process, attaching any resulting guidelines, should be prepared with advice and comment from the CONFU Steering Committee. A draft of such a report was circulated by the Steering Committee for comment prior to a plenary session on November 25, 1996. At the meeting on November 25, 1996, a number of revisions to the draft report were suggested and discussed, and it was agreed by the participants that the three sets of proposed guidelines dealing with digital images, distance learning, and educational multimedia, would be attached as appendices to what would now be called an Interim Report. The Interim Report would be circulated as useful background for those who would now consider the endorsement or non-endorsement of the proposals for guidelines during an agreed to six-month endorsement period.

The Interim Report was published in December 1996 in both hard copy and electronic form, and it was made available on numerous websites, including the official U.S. Patent and Trademark Office website.⁴⁰

³⁸ See list of Participants in Meeting on the Fair Use of Music Materials in a Digital Environment, held on April 26, 1996, at Columbia University, in New York, *infra* Appendix F.

³⁹ See Uniform Preamble for All Fair Use Guidelines *infra* Appendix G.

⁴⁰ The official U.S. Patent and Trademark Office website is located at: <http://uspto.gov>.

Following an extended period for discussion and consideration of the proposals for guidelines, CONFU participants met on May 19, 1997, to consider the degree to which the three proposals for guidelines had gained acceptance and endorsement among the copyright owner and user communities as reflected in comments and statements received by the CONFU facilitator. It was determined that a report, which would update the Interim Report as to the status of CONFU and the results achieved to date, be drafted and published in recognition of what was viewed by many as the conclusion of the first phase of the Conference of Fair Use. Participants were given until June 30, 1997, to submit to the facilitator any formal or revised statements or comments of their position on the three proposals for guidelines, with such submissions to be included in the aforementioned report, as well as, posted on the U.S. Patent and Trademark Office website.⁴¹

In September 1997, a Report to the Commissioner on the Conclusion of the First Phase of the Conference on Fair Use was published, as well as posted on the U.S. Patent and Trademark Office website. This Report updated the status of the guidelines, included all submissions received by the facilitator, both formal written ones and electronic submissions, together with any statements by CONFU participants, and detailed the conclusions of the CONFU participants. Chief amongst those was that, in recognition of the need for continued work and discussion on the three sets of proposals for guidelines, as well as, the desire of most participants to continue a forum for dialogue on other fair use issues, CONFU participants would reconvene in May 1998, to assess the status of the proposals for guidelines, to monitor the on-going work of the remaining, reconstituted working groups on digital images and distance learning, and the progress, if any, toward achieving greater acceptance, endorsement, and implementation of the various proposed guidelines within the copyright owner and user communities.

On May 18, 1998, in addition to the final reports of the working groups, attendees at the final CONFU session heard presentations from a number of organizations on copyright awareness projects and educational licensing programs.⁴² It was also agreed that a Final Report to the Commissioner on the Conclusion of the Conference on Fair Use be published, with said report to include both an informational directory of those groups that participated in

⁴¹ See Notifications Received From Organizations on the Proposals for Fair Use Guidelines, *Report to the Commissioner on the Conclusion of the First Phase of the Conference on Fair Use*, Volume Two.

⁴² Presentations were made by the College Art Association, the American Society of Journalists and Authors, the Consortium of College and University Media Centers, the National Initiative for a Networked Cultural Heritage, the Art Museum Image Consortium, the Image Directory, the Museum Digital Licensing Collective, the Association of American Publishers, the Copyright Clearance Center, the American Library Association, the American Society of Composers, Authors, and Publishers, Broadcast Music, Incorporated, and the Software Publishers Association. See Presentations on Copyright Awareness Projects and Educational Licensing Programs *infra* Volume Two.

CONFU,⁴³ and an annotated bibliography of relevant publications and websites concerning copyright and fair use issues.⁴⁴

II. STATUS OF THE PROPOSALS FOR GUIDELINES

Following, what amounted to an intensive self-education process by CONFU participants, the various working groups, where it proved possible, began in early 1995 the task of discussing and drafting proposed guidelines, often taking months of negotiation on both concepts and language.

Some working groups succeeded in drafting proposals for guidelines which were acceptable to a broad range of participants. Others were not as successful in drafting proposals for guidelines acceptable to a broad cross-representative number of CONFU participants. In some areas, participants felt that the time was not yet ripe to write actual guidelines since the technology was still evolving and the marketplace was still experimenting with how to deal with these issues. In other areas, there was no clear consensus on how to draft guidelines, or whether, in some cases, guidelines were even necessary.

Some institutions and organizations which participated in CONFU are opposed to one or more of the proposals for guidelines, while others have endorsed some or all of the guidelines. It was a matter of general agreement by all CONFU participants that the participation by such institutions and organizations in the process of drafting these proposals for guidelines does not assume the endorsement by any of the participating institutions and organizations. What follows is a summary of the work by the respective working groups on the various proposals for guidelines.

A. DIGITAL IMAGES

It was recognized at the outset of CONFU that digital images collections raise issues different from text issues; that these considerations and concerns were not addressed by text norms and understandings (e.g., quality/distortion/accuracy issues, commercial exploitation potential, and the critical mass necessary for educational uses). Moreover, print issues were well represented within the CONFU process, and, because not much attention had been paid to the issues regarding images in the old technologies, it was even more difficult to grapple with the issues in the new technologies. These issues were discussed at early CONFU plenary sessions and separately at a College Art Association (CAA) meeting in April 1995, in New York, convened by Barbara Hoffman, CAA counsel.

⁴³ See Organizational Descriptions and Contact Information Directory *infra* Volume Two.

⁴⁴ See Selected Annotated Bibliography of Publications and Websites Concerning Fair Use Issues *infra* Volume Two.

Subsequently, various versions of scenarios and drafts of proposed guidelines were prepared and presented by Barbara Hoffman and discussed at several CONFU plenary sessions. Recognizing the scope of the issues, and the disagreements on threshold understandings of copyright issues relating to digital images, it was recommended at the CONFU plenary session in December 1995 that a more formal CONFU working group, representing both educational users and copyright owners, was needed to review and negotiate the working drafts. After a few sessions in early 1996, it became clear that, in order to make significant progress on drafting of widely acceptable guidelines, other disciplines, in addition to art history and art scholarship, needed to be represented in the working group in order to represent broader interests and concerns regarding educational fair use of digital images.

Drawing also on representative parties from the scientific, biomedical, and mathematics communities, the Digital Images Working Group was reorganized under the leadership of Patricia Williams of the American Association of Museums, with the assistance of Anita DiFanis of the Association of Art Museum Directors, and others, including, Mary Levering of the U.S. Copyright Office, Hope O'Keeffe of the National Endowment for the Arts, and Victor S. Perlman, General Counsel of the American Society of Media Photographers, with more than twenty participating organizations providing support and guidance to this expanded process. This expanded effort led to new Educational Fair Use Guidelines for Digital Images being drafted with input from the copyright owner and user communities. The purpose of the Guidelines is to clarify the application of the fair use doctrine to the creation of digital archives, digital images and their use, for educational purposes, including the digitizing of pre-existing analog image collections and newly acquired analog visual images.

Having completed the drafting process in November 1996, the working group concluded that, while there was not consensus within the working group as to recommending the guidelines for endorsement, there was consensus that the draft guidelines could be disseminated to organizations for review, discussion, and possible endorsement over the next several months. As with other sets of guidelines, participation in the process of drafting these guidelines does not assume the endorsement by any of the participating organizations, and organizations may or may not choose to endorse the digital images guidelines. At the CONFU session on November 25, 1996, it was decided to submit these for consideration as a proposal for fair use guidelines for digital images.⁴⁵

Following extensive national discussion and consideration of the proposal for guidelines by many organizations concerned with art education, art history and art preservation, it was apparent at the CONFU meeting on May 19, 1997, that while a number of organizations had endorsed the proposed guidelines and were willing to implement them in

⁴⁵ See Proposal for Educational Fair Use Guidelines for Digital Images *infra* Appendix H.

order to see if they worked, there was a significant number of organizations that opposed endorsement of the guidelines at this time on the basis that some of the proposed requirements in the guidelines were viewed as unworkable. Given that most participants supported the goal of achieving workable guidelines, but acknowledging the lack of consensus on the proposed guidelines, it was proposed that a monitored use period be instituted for at least one year, during which institutions could implement the proposed guidelines and use them in practical classroom and institutional situations. During this use period, those institutions and organizations which voluntarily implement the guidelines were to be asked to provide their observations, comments, and criticisms of the guidelines to the Digital Images Working Group, whose membership was expanded to include a greater number of educational and academic organizations. The working group was authorized to continue to meet periodically to discuss ways to address the concerns expressed and to revise the guidelines with a goal of gaining wider support and endorsement of them.

At the CONFU session on May 19, 1997, it was agreed that a use period of one year be instituted for the voluntary adoption, implementation, and review by interested institutions of the Proposal for Educational Fair Use Guidelines for Digital Images. During this use period, the Digital Images Working Group would meet to address any concerns, observations, or criticisms received in connection with the proposed guidelines, and to discuss and negotiate possible refinements of the guidelines with the goal of achieving broad-based support and endorsement of the guidelines by May 1998.

After an initial meeting in the fall of 1997, at which time some participant organizations expressed their opposition to continuing the effort to achieve guidelines within the CONFU process, the Digital Images Working Group ceased to meet, with no further work done on the proposed guidelines. This development was reported at the final CONFU session on May 18, 1998.

B. DISTANCE LEARNING

The Distance Learning Working Group met under the leadership of Laura Gasaway, Director of the Law Library at the University of North Carolina, representing the Association of American Universities, to discuss the issues involved in distance learning activities and to draft guidelines.

After considerable discussion, the working group determined that at this time it was feasible to draft guidelines which only apply to the real time performance and display of a lawfully acquired copyrighted work not covered under Section 110 (2) of the Copyright Act but not to asynchronous delivery of distance learning over a computer network. Although participants in the working group believe that fair use applies in some aspects of such instruction, they did not develop fair use guidelines to cover these situations because they felt that the area was still unsettled, in that the technology is rapidly developing, educational

institutions are only now beginning to experiment with such distance learning courses, and publishers and other content creators are in the early stages of developing materials and marketing strategies for publisher-produced computer network delivery of distance learning materials. The working group suggested that the issue of fair use guidelines for asynchronous computer network delivery of distance learning courses be revisited within three to five years.

The purpose of the Educational Fair Use Guidelines for Distance Learning is to provide guidance on the application for the performance and display of copyrighted works in some of the distance learning environments that have developed since the enactment of Section 110 and that may not meet the specific conditions of Section 110(2). It is the belief of the working group that these Guidelines basically extend the face-to-face teaching exemptions in Section 110 of the Copyright Act to distance learning with certain restrictions. As with other sets of guidelines, participation in the process of drafting these guidelines does not assume the endorsement by any of the participating organizations. On November 25, 1996, it was decided to submit these for consideration as a proposal for fair use guidelines for distance learning.⁴⁶

Following extensive national discussion and consideration of the proposal for guidelines by many organizations concerned with distance education issues, it was apparent at the CONFU plenary session meeting on May 19, 1997, that while numerous organizations had endorsed the proposed guidelines, there was a significant number of organizations that opposed endorsement of the guidelines for a variety of reasons, including, but not limited to, that the proposed guidelines did not go far enough in addressing concerns about fair use for asynchronous computer network delivery of distance learning courses. Given that most participants supported the goal of adopting workable guidelines, yet acknowledging the lack of consensus among CONFU participants on the proposed guidelines, it was agreed that the working group be expanded to include additional representatives from the educational community in order to attempt to resolve some of the concerns and reservations expressed by participants about the proposed guidelines. This expanded working group would continue to meet periodically to address the concerns raised about the proposed guidelines, and would now additionally pursue the development of fair use guidelines for asynchronous computer network delivery of distance learning courses.

At the CONFU session on May 19, 1997, it was agreed that the membership of the Distance Learning Working Group would be reconstituted and expanded to include academic and educational institutions directly involved in distance learning activities, and that the Distance Learning Working Group would meet to address any concerns, observations, or criticisms received in connection with the proposed guidelines, to discuss and negotiate the development of guidelines for asynchronous computer network delivery of distance learning

⁴⁶ See Proposal for Educational Fair Use Guidelines for Distance Learning *infra* Appendix I.

courses, and to discuss and negotiate possible refinements of the proposed guidelines with the goal of achieving broad-based support and endorsement of the guidelines by May 1998.

After several initial meetings during the fall of 1997, at which some participant organizations expressed their strong opposition to continuing the effort to achieve guidelines within the CONFU process, the Distance Learning Working Group ceased to meet. This development was reported at the final CONFU session on May 18, 1998, at which time it was also noted that then-pending legislation directs the U.S. Copyright Office to provide Congress with a report recommending ways to promote distance learning through digital technologies.⁴⁷

C. EDUCATIONAL MULTIMEDIA

The Consortium of College and University Media Centers (CCUMC), which convened a large group of representatives of both copyright owners and educational institutions which became the educational multimedia working group, had begun its process of discussing and drafting possible educational multimedia fair use guidelines four months prior to the convening of CONFU. This working group acted under the leadership of the late Ivan Bender, counsel to CCUMC, and Lisa Livingston, Director of Instructional Media, City College/City University of New York, and chair of the CCUMC Government Relations Committee.

The purpose of the Fair Use Guidelines for Educational Multimedia, which were drafted by copyright owners and users after considerable discussion and negotiation, is to clarify the application of fair use of copyrighted works as teaching methods are adapted to new learning environments. The Guidelines apply to the fair use of portions of lawfully acquired copyrighted works in educational multimedia projects which are created by educators or students as part of a systematic learning activity at nonprofit educational institutions. Such institutions are defined as nonprofit organizations whose primary focus is supporting research and instructional activities of educators and students for noncommercial purposes.

On September 6, 1996, CONFU accepted the Educational Multimedia Fair Use Guidelines developed by the organizations participating in the CCUMC working group as a CONFU proposal for guidelines, and, further, indicated that such guidelines could be included in any resulting CONFU report.⁴⁸ On November 25, 1996, it was agreed by CONFU

⁴⁷ See H.R. 2281 (Digital Millennium Copyright Act) section 403, 105th Cong., 2d Sess. 1998 (amending 17 U.S.C.).

⁴⁸ On September 27, 1996, a Nonlegislative Report was adopted by the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary, U.S. House of Representatives, that relates to the Fair Use Guidelines for Educational Multimedia.

participants, at the urging of CCUMC members, to submit the CCUMC-developed Educational Multimedia Fair Use Guidelines as a CONFU-sponsored proposal for fair use guidelines for educational multimedia.⁴⁹

Following extensive national discussion and consideration of the proposal for guidelines by numerous organizations concerned with multimedia and education issues, it was apparent at the CONFU meeting on May 19, 1997, that while a sizable number of CONFU participants, as well as, other institutions and organizations in both the copyright owner and user communities, supported or had endorsed the proposed guidelines, there was not a general consensus among CONFU participants, particularly those representing some academic and educational institutions and library concerns, in support of the guidelines.

With most CONFU participants voicing support for the ultimate adoption of voluntary workable guidelines, it was suggested that the proposed guidelines, already being implemented by some institutions, could be tried and monitored during a use period of between two to three years, during which time institutions could provide comments, observations and critiques on how the guidelines either work or do not work in classroom situations, with a possible survey of the institutions which implement the guidelines.

A status report on the adoption and implementation of the guidelines was made at the final CONFU session on May 18, 1998.

D. ELECTRONIC RESERVE SYSTEMS

The working group met under the leadership of Kenneth D. Crews, Director, Copyright Management Center, Indiana University-Purdue University at Indianapolis, representing the Indiana Partnership for Statewide Education, Laura Gasaway, Director of the Law Library at the University of North Carolina, representing the Association of American Universities, Douglas Bennett of the American Council of Learned Societies, Carol Risher, Vice President of Copyright and New Technology, Association of American Publishers, and Mary Jackson of the Association of Research Libraries, to discuss the issues involved in the application of fair use to the creation of electronic reserve systems that allow storage, access, display and downloading of electronic versions of materials that support the instructional requirements of a specific course within a nonprofit educational institution.

After considerable discussion, the working group reached an impasse in late 1995 over the proposed scope and language of possible guidelines. This disagreement among the representatives of the copyright owner, educational institution, and library communities led all parties involved to conclude that it was not possible to draft fair use guidelines capable of

⁴⁹ See Proposal for Fair Use Guidelines for Educational Multimedia *infra* Appendix J.

gaining wide acceptance at this time. Some members of the working group, however, continued to meet and discuss these issues, which culminated in their drafting and circulating for comment proposed guidelines in March 1996, in the hope of finding a middle ground position which could gain acceptance.

During a CONFU plenary session meeting in May 1996, all parties interested in electronic reserve systems were encouraged to discuss the proposed guidelines in an effort to explore whether widely acceptable guidelines were achievable. Subsequent discussions, however, again revealed significant differences of opinion about the draft guidelines dated March 5, 1996.

During the CONFU plenary session on September 6, 1996, there was a general consensus that the proffered Fair Use Guidelines for Electronic Reserve Systems had not received widespread acceptance at this time. While some participants expressed a willingness to endorse or adopt them,⁵⁰ other participants expressed their opposition to the proffered guidelines.⁵¹

In discussion of whether the draft guidelines could be characterized as being an understanding of fair use by those organizations which endorsed them, there was only a consensus that they were not widely supported at this time within CONFU. While acknowledging that some institutions may feel free to adopt and implement them, it was decided at the CONFU session on November 25, 1996, that the proffered guidelines for electronic reserve systems would not be disseminated as a formal work product of CONFU.

E. INTERLIBRARY LOAN AND DOCUMENT DELIVERY

The working group met under the leadership of Mary Jackson of the Association of Research Libraries, and Douglas Bennett of the American Council of Learned Societies, to discuss the issues involved both in digital interlibrary loan and document delivery activities and to attempt to draft guidelines. After considerable discussion, the working group unanimously agreed on March 27, 1996, that it was premature to draft guidelines for digital transmission of digital documents.

⁵⁰ The following organizations are on record as either endorsing or supporting the proposed Fair Use Guidelines for Electronic Reserve Systems: American Association of Law Libraries, American Council of Learned Societies, Association of American University Presses, Indiana Partnership for Statewide Education, Music Library Association, National School Boards Association, and Special Libraries Association.

⁵¹ The following organizations are on record as opposed to the proposed Fair Use Guidelines for Electronic Reserve Systems: American Society of Composers, Authors & Publishers, American Society of Journalists and Authors, American Society of Media Photographers, Association of American Publishers, Association of Research Libraries, Authors Guild, Inc./Authors Registry, Inc., Recording Industry Association of America, and Software Publishers Association.

Subsequent discussions throughout the spring and summer of 1996, failed to achieve agreement on guidelines for digital delivery of print originals under interlibrary loan arrangements. After considerable discussion within the working group and in general plenary sessions, it was agreed by both the copyright owner and user communities that it was not possible, at this time, to draft widely acceptable guidelines for digital delivery of print materials by libraries.

F. USE OF COMPUTER SOFTWARE IN LIBRARIES

After plenary discussions of the scenarios developed by Sarah K. Wiant, Director of the Law Library, Washington and Lee University, representing the Special Libraries Association, and Mark Traphagen, Vice President and Counsel for Intellectual Property and Trade Policy, Software Publishers Association, it was generally agreed by CONFU participants that, since the scenarios developed by the working group clearly illustrated the general rules and how particular uses of computer program software in libraries either complied with or violated the Copyright Act, there was no need to draft separate guidelines.

On September 6, 1996, the Statement on Use of Copyrighted Computer Programs (Software) in Libraries -- Scenarios⁵² was adopted by CONFU participants. On November 25, 1996, it was decided that this Statement should be appended to the Interim Report, and, subsequently, on May 19, 1997, that it be included in a report on the conclusion of the first phase of CONFU, as well as any final report.

III. SUMMARY

In summary, the CONFU process resulted in much discussion on the issue of fair use in a digital environment. It also resulted in the development of fair use guidelines for educational multimedia, proposals for fair use guidelines for digital images and some aspects of distance learning, the adoption of a statement of scenarios dealing with the use of computer software in libraries, and the identification and referral of two important issues for possible legislative solutions, i.e., (1) reproduction of works for the visually-impaired or other persons with disabilities, and (2) digital preservation. Though the proffered guidelines in the area of electronic reserve systems were not widely supported by CONFU participants, and it was determined by the parties involved that it was premature to draft guidelines addressing digital transmission of digital documents in the context of interlibrary loan and document delivery activities, it was felt that the discussions on these issues had been extremely valuable if not immediately fruitful.

⁵² See Statement on Use of Copyrighted Computer Programs (Software) in Libraries--Scenarios *infra* Appendix K.

Copies of all notifications or statements of endorsement or opposition received by the U.S. Patent and Trademark Office, together with all comments from individuals, are contained in the *Report to the Commissioner on the Conclusion of the First Phase of the Conference on Fair Use*, as well as posted on the U.S. Patent and Trademark Office official website (<http://www.uspto.gov>) under "Conference on Fair Use." In addition, this Final Report to the Commissioner on the Conclusion of the Conference on Fair Use contains a Directory Listing of all participant organizations that provided information, as submitted by those organizations, and a selected bibliography of published materials on the topic of educational and library fair use, many of which are available in electronic form on the World Wide Web.

IV. CONCLUSION

CONFU was an extraordinary public-private effort to discuss the need for, and to develop, fair use guidelines for educational and library uses of copyrighted works in a digital environment. Many organizations, especially nonprofit organizations, devoted substantial human and financial resources and made significant sacrifices to participate in the CONFU effort. It would be difficult to measure fully the total investment of time, resources, and sustained participation by those who were involved and all the resulting benefits.

Some organizations approached CONFU initially in the belief that there was little chance of reaching agreement on guidelines. Others expressed either their misgivings or skepticism as to whether such a process could yield substantial and meaningful results. Not all participants supported the goal of developing and adopting educational fair use guidelines, preferring to seek legislative action on the issue. Some participants opposed the process, as well as the results, while others strongly supported both. Others strongly supported the process, but determined that they could not, or would not, support the results. Most participants concluded, however, that it had been an instructive, if not always productive, endeavor.

As CONFU concluded, it was clear that fair use was alive and well in the digital age, and that attempts to draft widely supported guidelines will be complicated by the often competing interests of the copyright owner and user communities.

APPENDIX A

CONFERENCE ON FAIR USE PARTICIPANTS

ALLIANCE FOR THE PROMOTION OF SOFTWARE INNOVATION (APSI)
AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE (AAAS)
AMERICAN ASSOCIATION OF COMMUNITY COLLEGES (AACC)
AMERICAN ASSOCIATION OF LAW LIBRARIES (AALL)
AMERICAN ASSOCIATION OF MUSEUMS (AAM)
AMERICAN CHEMICAL SOCIETY (ACS)
AMERICAN COUNCIL OF LEARNED SOCIETIES (ACLS)
AMERICAN COUNCIL ON EDUCATION (ACE)
AMERICAN LIBRARY ASSOCIATION (ALA)
AMERICAN MUSICOLOGICAL SOCIETY (AMS)
AMERICAN PHYSICAL SOCIETY (APS)
AMERICAN PRINTING HOUSE FOR THE BLIND (APHB)
AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (ASCAP)
AMERICAN SOCIETY OF JOURNALISTS AND AUTHORS (ASJA)
AMERICAN SOCIETY OF MEDIA PHOTOGRAPHERS (ASMP)
AMERICAN SOCIETY OF PICTURE PROFESSIONALS (ASPP)
ASSOCIATION FOR INFORMATION MEDIA AND EQUIPMENT (AIME)
ASSOCIATION FOR INSTRUCTIONAL TECHNOLOGY (AIT)
ASSOCIATION OF ACADEMIC HEALTH SCIENCES LIBRARIES (AAHSL)
ASSOCIATION OF AMERICAN COLLEGES AND UNIVERSITIES (AACU)
ASSOCIATION OF AMERICAN MEDICAL COLLEGES (AAMC)
ASSOCIATION OF AMERICAN PUBLISHERS (AAP)
ASSOCIATION OF AMERICAN UNIVERSITIES (AAU)
ASSOCIATION OF AMERICAN UNIVERSITY PRESSES (AAUP)
ASSOCIATION OF ART MUSEUM DIRECTORS (AAMD)
ASSOCIATION OF COLLEGE AND RESEARCH LIBRARIES (ACRL)
ASSOCIATION OF RECORDED SOUND COLLECTIONS (ARSC)
ASSOCIATION OF RESEARCH LIBRARIES (ARL)
ASSOCIATION OF TEST PUBLISHERS (ATP)
ART LIBRARIES SOCIETY OF NORTH AMERICA (ARLIS/NA)
AUTHORS GUILD, INC./AUTHORS REGISTRY, INC. (AG/AR)
BROADCAST MUSIC INCORPORATED (BMI)
BUSINESS SOFTWARE ALLIANCE (BSA)
CENTER FOR COMPUTER-ASSISTED RESEARCH IN HUMANITIES (CCARH)
CHURCH MUSIC PUBLISHERS ASSOCIATION (CMPA)
COLLEGE ART ASSOCIATION (CAA)
COLLEGE MUSIC SOCIETY (CMS)
COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION (CCIA)
CONSORTIUM OF COLLEGE AND UNIVERSITY MEDIA CENTERS (CCUMC)
COPYRIGHT CLEARANCE CENTER (CCC)
COPYRIGHT MANAGEMENT SERVICES (CMS)
COPYRIGHT SOCIETY OF THE UNITED STATES OF AMERICA (CS)
COUNCIL OF LITERARY MAGAZINES AND PRESSES (CLMP)
CREATIVE INCENTIVE COALITION (CIC)
EDUCOM/COALITION FOR NETWORKED INFORMATION (EDUCOM/CNI)
FIRST CHURCH OF CHRIST SCIENTIST (FCCS)
GRAPHIC ARTISTS GUILD (GAG)
INDIANA PARTNERSHIP FOR STATEWIDE EDUCATION (IPSE)
INFORMATION INDUSTRY ASSOCIATION (IIA)

INFORMATION TECHNOLOGY INDUSTRY COUNCIL (ITIC)
INSTITUTE FOR LEARNING TECHNOLOGIES (ILT)
INSTRUCTIONAL TELECOMMUNICATIONS COUNCIL (ITC)
INTERACTIVE MULTIMEDIA ASSOCIATION (IMA)
INTERNATIONAL ASSOCIATION OF SCIENTIFIC, TECHNICAL & MEDICAL PUBLISHERS (IASTMP)
INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
J. PAUL GETTY TRUST
MAGAZINE PUBLISHERS ASSOCIATION (MPA)
MAJOR ORCHESTRA LIBRARIANS ASSOCIATION (MOLA)
MEDICAL LIBRARY ASSOCIATION (MLA)
MOTION PICTURE ASSOCIATION OF AMERICA (MPAA)
MUSIC EDUCATORS NATIONAL CONFERENCE (MENC)
MUSIC LIBRARY ASSOCIATION (MLA)
MUSIC PUBLISHERS ASSOCIATION (MPA)
MUSIC TEACHERS NATIONAL ASSOCIATION (MTNA)
NATIONAL ASSOCIATION OF BROADCASTERS (NAB)
NATIONAL ASSOCIATION OF SCHOOLS OF MUSIC (NASM)
NATIONAL COORDINATING COMMITTEE FOR THE PROMOTION OF HISTORY (NCCPH)
NATIONAL COUNCIL OF TEACHERS OF MATHEMATICS (NCTM)
NATIONAL EDUCATION ASSOCIATION (NEA)
NATIONAL MUSIC PUBLISHERS ASSOCIATION (NMPA)
NATIONAL PUBLIC RADIO (NPR)
NATIONAL SCHOOL BOARDS ASSOCIATION (NSBA)
NATIONAL SCIENCE TEACHERS ASSOCIATION (NSTA)
NEWSPAPER ASSOCIATION OF AMERICA (NAM)
OHIOLINK
PICTURE AGENCY COUNCIL OF AMERICA (PACA)
PUBLIC BROADCASTING SYSTEM (PBS)
RECORDING FOR THE BLIND & DYSLEXIC (RFB&D)
RECORDING INDUSTRY ASSOCIATION OF AMERICA (RIAA)
SMITHSONIAN INSTITUTION
SOCIETY OF MUSIC THEORISTS (SMT)
SOFTWARE PUBLISHERS ASSOCIATION (SPA)
SONNECK SOCIETY FOR AMERICAN MUSIC (SSAM)
SPECIAL LIBRARIES ASSOCIATION (SLA)
THE COPYRIGHT GROUP
UNIVERSITY OF TEXAS, OFFICE OF GENERAL COUNSEL
U.S. COPYRIGHT OFFICE
U.S. LIBRARY OF CONGRESS/NATIONAL DIGITAL LIBRARY PROGRAM
U.S. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE (NCLIS)
U.S. NATIONAL ENDOWMENT FOR THE ARTS (NEA)
U.S. NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH)
U.S. NATIONAL LIBRARY OF MEDICINE (NLM)
U.S. NATIONAL SCIENCE FOUNDATION (NSF)
VISUAL RESOURCES ASSOCIATION

APPENDIX B

WRITTEN STATEMENTS SUBMITTED TO CONFU

[The following submitted written statements at the CONFU meeting on September 21, 1994.]

ALLIANCE TO PROMOTE SOFTWARE INNOVATION
AMERICAN ASSOCIATION OF COMMUNITY COLLEGES
AMERICAN ASSOCIATION OF LAW LIBRARIES
AMERICAN COUNCIL OF LEARNED SOCIETIES
AMERICAN COUNCIL ON EDUCATION
AMERICAN LIBRARY ASSOCIATION
ASSOCIATION OF ACADEMIC HEALTH SCIENCES LIBRARIES
ASSOCIATION OF AMERICAN PUBLISHERS
ASSOCIATION OF AMERICAN UNIVERSITIES
ASSOCIATION OF AMERICAN UNIVERSITY PRESSES
ASSOCIATION OF COLLEGE AND RESEARCH LIBRARIES
ASSOCIATION OF RESEARCH LIBRARIES
BUSINESS SOFTWARE ALLIANCE
COLLEGE ART ASSOCIATION
CONSORTIUM OF COLLEGE AND UNIVERSITY MEDIA CENTERS
COPYRIGHT CLEARANCE CENTER
CREATIVE INCENTIVE COALITION
DAVID NIMMER
EDUCOM
INFORMATION INDUSTRY ASSOCIATION
INTELLECTUAL PROPERTY OWNERS
MEDICAL LIBRARY ASSOCIATION
MOTION PICTURE ASSOCIATION OF AMERICA
NATIONAL ASSOCIATION OF BROADCASTERS
NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND GRANT COLLEGES
NATIONAL COORDINATING COMMITTEE FOR THE PROMOTION OF HISTORY
NATIONAL COUNCIL OF TEACHERS OF MATHEMATICS
OHIOLINK
RECORDING FOR THE BLIND & DYSLEXIC
RECORDING INDUSTRY ASSOCIATION OF AMERICA
SMITHSONIAN INSTITUTION
SOFTWARE PUBLISHERS ASSOCIATION
THE COPYRIGHT GROUP
U.S. LIBRARY OF CONGRESS
VISUAL RESOURCES ASSOCIATION

Date		Description		Amount	
1900	Jan 1	Balance		100.00	
1900	Jan 15	Received from A. B.		50.00	
1900	Feb 1	Received from C. D.		25.00	
1900	Mar 1	Received from E. F.		75.00	
1900	Apr 1	Received from G. H.		100.00	
1900	May 1	Received from I. J.		150.00	
1900	Jun 1	Received from K. L.		200.00	
1900	Jul 1	Received from M. N.		250.00	
1900	Aug 1	Received from O. P.		300.00	
1900	Sep 1	Received from Q. R.		350.00	
1900	Oct 1	Received from S. T.		400.00	
1900	Nov 1	Received from U. V.		450.00	
1900	Dec 1	Received from W. X.		500.00	
1900	Dec 31	Total		2000.00	

APPENDIX C

SUMMARY OF INITIAL PROPOSED PRINCIPLES

[Following summary based on participants' written statements submitted September 1994.]

Concerning New Guidelines:

- Any New Guidelines must reflect the balance inherent in the four factors of section 107.
- There should be a presumption that existing law works; proponents of change should bear the burden of showing that change in the copyright law or in current guidelines is needed.
- New Guidelines should treat the existing Guidelines as proper precedent.
- The legal status of New Guidelines is unclear.
- New Guidelines should include uses for distant learning applications, while systems should be employed to prevent wholesale downloading.
- Fair use is, and New Guidelines should be, "Setting and Format Neutral."
- New Guidelines should be negotiated over time, without premature legislation.
- New Guidelines must take international practices into account.

The Marketplace:

- The marketplace is for the most part capable of achieving the fair use balance, particularly in the NII environment where authors are readers (and vice versa), with less intermediation by publishers and librarians.
- The need for changing the definition of fair use, or for New Guidelines, can better be evaluated empirically from market transactions than from *a priori* speculation.

Licensing/Transaction Tracking:

- Successful copyright licensing does not require "bright-line" definitions of fair use.
- New Guidelines must leave ample scope for experimentation and testing of voluntary licensing arrangements.
- The cost of securing permission should never exceed the financial potential of the use.
- Instantaneous global transmissions occur in a system that permits licensing and tracking of transactions and reduces the need for fair use.
- A system for tracking and reporting transactions needs to be integral to the information superhighway.
- Though licensing is practical, it must not be permitted to evade or erode fair use.

Media:

- New Guidelines must distinguish among different types of copyrighted materials.
- Fair use must apply equally to all media.
- Digital media are different and cannot be governed by simple evolution of older mechanisms.
- Fair use should be independent of the form of publication or distribution.

Policy:

- Congressional determination in 1976, that no broad educational/scholarly exemption from copyright was justified, still applies.
- Digital fair use must be defined as part of an explicit recognition as that information that must be in the public domain.
- Copyright law, not contract law, should be applied to electronic libraries and campuses.
- Materials for which fees are charged should be reasonably priced to permit use in nonprofit educational setting.
- It would be dangerous to undertake legislative amendments on the basis of speculation.
- Unauthorized alterations of works, particularly pictorial and graphic works, should be impermissible.
- The burden of determining copyright status, identity of owners, and duration of protection should be ameliorated.

Fair Use in General:

- The definition of fair use need not change.
- Fair use needs to be broadened.
- Library privileges -- particularly with respect to preservation -- should be enhanced.
- This Conference should address fair use in all contexts, not just education and libraries.
- Fair use should not be enlarged, particularly because digitally disseminated works are more vulnerable to infringement.
- Fair use should not be invoked with respect to activities that displace actual or potential sales or licenses.
- Building collections of images without permission is not fair use.

"Browsing" as Fair Use:

- Fair use encompasses more than the right to browse through copyrighted works.
- There is no need to establish blanket browsing rights for digital materials.
- Users must have the right to browse, quote, extract, and reproduce information.
- Copyright owners should not be required to donate access time to their works on-line.

SEPTEMBER 21, 1994

APPENDIX D

TOPIC AND ISSUE PAPER PRESENTERS

TOPIC	ISSUE PAPER PRESENTERS
What is a classroom	Sarah Cox (ACRL)
Distance Learning	Stan Cahill (PBS) and Laura Gasaway (AAU); Ivan Bender (CCUMC); Kenneth Crews (IPSE); Christine Dalziel (ITC); Ashley Giglio; Sally Wiant (SLA) and Mark Traphagen (SPA)
Multimedia	Ivan Bender and Lisa Livingston (CCUMC)
Licensing	PBS, SPA, CCC; Picture Network International; Authors Guild/ Authors Registry; Bernard Sorkin (CIC); MPAA
Electronic Reserve Systems	Mary Jackson (ARL), Kenneth Crews (IPSE), Laura Gasaway (AAU)
Visually Impaired	John Kelly (RFB&D)
Encryption	Stan Cahill (PBS), Ann Okerson (ARL), John Garrett (CNRI)
Transient Copying	Mark Traphagen (SPA) and Ollie Smoot (ITI)
What is a Library	Sarah Cox (ACRL)
Software Use in Libraries	Mark Traphagen (SPA), Sarah Wiant (SLA), Ed Valauskas (ALA)
Preservation	Robert Oakley (AALL) and Page Miller (NCC)
Interlibrary Loan/Document Delivery/Electronic Sharing	Mary Jackson (ARL), Douglas Bennett (ACLS)
Image Archives	Virginia Macie Hall (VRA), Christine Steiner (Smithsonian), Christine Sundt (CAA) and Barbara Hoffman (CAA)
Permissions	Jean Carpenter (NCTM), Isabella Hinds (CCC) and Joe Alen (CCC), Christine Sundt (CAA)
International Harmonization	Joe Alen (CCC) and Sarah Cox (ACRL)
Download for Personal Use	Robert Oakley (AALL), Carol Risher (AAP), Mike Nash (IDA)
Authors' Concerns	Paul Aiken (Authors Guild), Pat McNees (ASJA)
First Amendment	Gus Steinhilber (NSBA)
Government Information	Donna Demac (ILT)
Browsing	Ed Valauskas (ALA), Steve Metalitz (IIA), Sally Wiant (SLA) and Mark Traphagen (SPA)
Purpose of Fair Use	Douglas Bennett (ACLS)

APPENDIX E

TOPIC GRID

TOPIC	ISSUE PAPER PRESENTED	SCENARIOS DISCUSSED	DRAFT GUIDELINES DISCUSSED BY CONFU	STATUS
What is a classroom	12/2/94			addressed in context of distance learning and multimedia guidelines
Distance Learning	12/2/94	1/4/95	6/15/95, 12/6/95, 2/28/96, 6/30/96, 9/6/96 11/25/96	Working Group met 1/9, 2/6, 2/28, 3/26, 4/18, 5/29, 7/18, 8/13, 10/10/96- guidelines being circulated for endorsements
Multimedia	12/2/94	2/2/95	4/5/95, 9/14/95, 12/6/95, 2/28/96, 6/30/96, 9/6/96	Guidelines incorporated in nonlegislative report on 9/27/96
Licensing	12/2/94	4/5/95, 7/10/95, 10/25/95 (presentations by PBS, SPA, CCC, AL, CIC, Picture Network Int'l)		
Electronic Reserves	12/2/94	4/5/95	6/15/95, 7/10/95, 10/25/95, 6/30/96, 9/6/96	CONFU could not proceed with guidelines
Visually Impaired	12/2/94	1/4/95		exemption enacted (PL 104-197 á 316)
Encryption	12/2/94			discussed as framework
Transient Copying	12-2-94	1-4-95		discussed as framework
What is a Library	12/2/94			addressed in context of other guidelines
Library Use of Software	12/2/94	9/14/95	10/25/95, 9/6/96	Statement of Scenarios adopted 9/6/96
Preservation	12/2/94	1/4/95	2/2/95	proposed legislative language in NII bill
Interlibrary Loan/ Document Delivery/ Electronic Sharing	12/2/94	7/10/95	10/25/95	Working Group agreed that it was premature to draft guidelines for digital transmission of digital documents
Image Archives	12/2/94	4/5/95	6/15/95, 12/6/95, 2/28/96, 9/6/96, 11/25/96	Working Group met 2/28, 4/9, 4/17, 4/22, 5/2, 5/15, 6/3, 7/16, 8/7, 9/4, 10/9, 10/28/96 with guidelines circulating for endorsement
Permissions	12/2/94			discussed as framework
International	12-2-94			discussed as framework
Downloading for Personal Use	12/2/94	2/2/95		Topic deemed inappropriate for guidelines
Authors' concerns	12/2/94			discussed as framework
First Amendment	1/4/95			discussed as framework
Government Information	1/4/95			Issue of access to government information deemed to be outside scope of CONFU
Browsing	1/4/95	2/2/95, 9/14/95		Given concerns over terminology, CONFU agreed not to proceed with a statement
Purpose of Fair Use	1/4/95			discussed as framework

Date		Description		Amount	
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APPENDIX F

**PARTICIPANTS IN MEETING ON THE FAIR USE
OF MUSIC MATERIALS IN A DIGITAL ENVIRONMENT****AT COLUMBIA UNIVERSITY, NEW YORK, NEW YORK, ON APRIL 26, 1996¹**

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS
A-R EDITIONS
ASSOCIATION OF RECORDED SOUND COLLECTIONS
BROADCAST MUSIC INCORPORATED
COLLEGE MUSIC SOCIETY
COLUMBIA UNIVERSITY
CONSORTIUM OF COLLEGE AND UNIVERSITY MEDIA CENTERS
COPYRIGHT SOCIETY OF THE UNITED STATES OF AMERICA
CORNELL UNIVERSITY
EASTMAN SCHOOL OF MUSIC
INDIANA UNIVERSITY
MAJOR ORCHESTRA LIBRARIANS ASSOCIATION
MUSIC LIBRARY ASSOCIATION
MUSIC PUBLISHERS ASSOCIATION
NATIONAL MUSIC PUBLISHERS ASSOCIATION
NEW YORK PUBLIC LIBRARY
SONNECK SOCIETY FOR AMERICAN MUSIC
SPRINGATE CORPORATION
WEILL-LENYA FOUNDATION

¹ For discussion concerning this meeting, see *supra* at 8.

APPENDIX G

UNIFORM PREAMBLE FOR ALL FAIR USE GUIDELINES

[The following text for a Uniform Preamble for use in all CONFU fair use guidelines was agreed on by all CONFU participants on May 30, 1996, with minor revisions agreed to on September 6, 1996, and November 25, 1996.]

EDUCATIONAL FAIR USE GUIDELINES FOR _____¹

1. INTRODUCTION

1.1 PREAMBLE

Fair use is a legal principle that provides certain limitations on the exclusive rights² of copyright holders. The purpose of these guidelines is to provide guidance on the application of fair use principles by educational institutions, educators, scholars and students {Insert appropriate clause} [who wish to digitize copyrighted visual images] [who develop multimedia projects using portions of copyrighted works] [who wish to use copyrighted works for distance education] under fair use rather than by seeking authorization from the copyright owners for non-commercial educational purposes. These guidelines apply to fair use only in the context of copyright.

There is no simple test to determine what is fair use. Section 107 of the Copyright Act³ sets forth the four fair use factors which should be assessed in each instance, based on the particular facts of a given case, to determine whether a use is a "fair use": 1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes, 2) the nature of the copyrighted work, 3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole, and 4) the effect of the use upon the potential market for or value of the copyrighted work.

While only the courts can authoritatively determine whether a particular use is fair use, these guidelines represent the endorser's consensus of conditions under which fair use should generally apply and examples of when permission is required. Uses that exceed these guidelines may or may not be fair use. The endorser also agrees that the more one exceeds these guidelines, the greater the risk that fair use does not apply.

The limitations and conditions set forth in these guidelines do not apply to works in the public domain -- such as U.S. government works or works on which copyright has expired for which there are no copyright restrictions -- or to works for which the individual or institution has obtained permission for the particular

¹ These Guidelines shall not be read to supersede other preexisting educational use guidelines that deal with the 1976 Copyright Act.

² See Section 106 of the Copyright Act.

³ The Copyright Act of 1976, as amended, is codified at 17 U.S.C. § 101 *et seq.*

use. Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance.

The participants who developed these guidelines met for an extended period of time and the result represents their collective understanding in this complex area. Because digital technology is in a dynamic phase, there may come a time when it is necessary to review the guidelines. Nothing in these guidelines should be construed to apply to the fair use privilege in any context outside of educational and scholarly uses of **{Insert appropriate phrase} [educational multimedia projects] [digital images] [distance education]**. These guidelines do not cover non-educational or commercial digitization or use at any time, even by non-profit educational institutions. These guidelines are not intended to cover fair use of copyrighted works in other educational contexts such as **{Insert appropriate phrases} [educational multimedia projects] [digital images] or [distance education]**, which may be addressed in other fair use guidelines.

This Preamble is an integral part of these guidelines and should be included whenever the guidelines are reprinted or adopted by organizations and educational institutions. Users are encouraged to reproduce and distribute these guidelines freely without permission; no copyright protection of these guidelines is claimed by any person or entity.

1.2 BACKGROUND

1.3 APPLICABILITY OF THESE GUIDELINES

1.4 DEFINITIONS

Revised: November 25, 1996

Uniform Preamble for CONFU Fair Use Guidelines
coordinated by:

Mary Berghaus Levering
Associate Register for National Copyright Programs
U.S. Copyright Office, Library of Congress
Washington, DC 20540-6007
email: mlev@loc.gov
voice: 202-707-8350 facsimile: 202-707-8366

APPENDIX H

PROPOSAL FOR EDUCATIONAL FAIR USE GUIDELINES FOR DIGITAL IMAGES¹

TABLE OF CONTENTS:

1. Introduction.
2. Image Digitization and Use by Educational Institutions.
3. Use by Educators, Scholars, and Students.
4. Image Digitization by Educators, Scholars, and Students for Spontaneous Use.
5. Important Reminders and Fair Use Limitations Under These Guidelines.
6. Transition Period for Pre-Existing Analog Image Collections.
- Appendix A: Organizations Endorsing These Guidelines.
- Appendix B: Organizations Participating in Development of These Guidelines.

1. INTRODUCTION:

1.1 Preamble.

Fair use is a legal principle that provides certain limitations on the exclusive rights² of copyright holders. The purpose of these guidelines is to provide guidance on the application of fair use principles by educational institutions, educators, scholars, and students who wish to digitize copyrighted visual images under fair use rather than by seeking authorization from the copyright owners for non-commercial educational purposes. These guidelines apply to fair use only in the context of copyright.

There is no simple test to determine what is fair use. Section 107 of the Copyright Act³ sets forth the four fair use factors which should be assessed in each instance, based on the particular facts of a given case, to determine whether a use is a "fair use": (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes, (2) the nature of the copyrighted work, (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole, and (4) the effect of the use upon the potential market for or value of the copyrighted work. While only the courts can authoritatively determine whether a particular use is fair use, these guidelines represent the endorsers' consensus of conditions under which fair use should generally apply and examples of when permission is required. Uses that exceed these guidelines may or may not be fair use. The endorsers also agree that the more one exceeds these guidelines, the greater the risk that fair use does not apply.

The limitations and conditions set forth in these guidelines do not apply to works in the public domain--such as U.S. government works or works on which copyright has expired for which there are no copyright restrictions-- or to works for which the individual or institution has obtained permission for the particular use. Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance.

¹ These guidelines shall not be read to supersede other pre-existing educational use guidelines that deal with the 1976 Copyright Act.

² See Section 106 of the Copyright Act.

³ The Copyright Act of 1976, as amended, is codified at 17 U.S.C. Sec. 101 et seq.

The participants who developed these guidelines met for an extended period of time and the result represents their collective understanding in this complex area. Because digital technology is in a dynamic phase, there may come a time when it is necessary to review the guidelines. Nothing in these guidelines should be construed to apply to the fair use privilege in any context outside of educational and scholarly uses of digital images. These guidelines do not cover non-educational or commercial digitization or use at any time, even by non-profit educational institutions. These guidelines are not intended to cover fair use of copyrighted works in other educational contexts such as educational multimedia projects,⁴ distance education, or electronic reserves, which may be addressed in other fair use guidelines.

This Preamble is an integral part of these guidelines and should be included whenever the guidelines are reprinted or adopted by organizations and educational institutions. Users are encouraged to reproduce and distribute these guidelines freely without permission; no copyright protection of these guidelines is claimed by any person or entity.

1.2 Background: Rights in Visual Images.

As photographic and electronic technology has advanced, the making of high-quality reproductions of visual images has become easier, cheaper, and more widely accessible. However, the fact that images may be easily available does not automatically mean they can be reproduced and reused without permission. Confusion regarding intellectual property rights in visual images arises from the many ways that images are created and the many sources that may be related to any particular image. Clearing permission, when necessary, requires identifying the holder of the applicable rights. Determining all the holders of the rights connected with an image requires an understanding of the source of the image, the content portrayed, and the creation of the image, both for original visual images and for reproductions of images.

Visual images can be original works or reproductions of other works; in some cases, original works may incorporate reproductions of other works as well. Often, a digital image is several generations removed from the visual image it reproduces. For example, a digital image of a painting may have been scanned from a slide, which was copied from a published book that contained a printed reproduction of the work of art; this reproduction may have been made from a color transparency photographed directly from the original painting. There may be intellectual property rights in the original painting, and each additional stage of reproduction in this chain may involve another layer of rights.

A digital image can be an original visual image, a reproduction, a published reproduction, or a copy of a published reproduction. An original visual image is a work of art or an original work of authorship (or a part of a work), fixed in digital or analog form and expressed in a visual medium. Examples include graphic, sculptural, and architectural works, as well as stills from motion pictures or other audio-visual works. A reproduction is a copy of an original visual image in digital or analog form. The most common forms of reproductions are photographic, including prints, 35mm slides, and color transparencies. The original visual image shown in a reproduction is often referred to as the "underlying work." Digital images can be reproductions of either original visual images or of other reproductions. A published reproduction is a reproduction of an original visual image appearing in a work distributed in copies and made available to the public by sale or other transfer of ownership, or by rental, lease, or lending. Examples include a plate in an exhibition catalog that reproduces a work of

⁴ In general, multimedia projects are stand-alone, interactive programs incorporating both original and pre-existing copyrighted works in various media formats, while visual image archives are databases of individual visual images from which images intended for educational uses may be selected for display.

art, and a digital image appearing in a CD-ROM or online. A copy of a published reproduction is a subsequent copy made of a published reproduction of an original visual image, for example, a 35mm slide which is a copy of an image in a book.

The rights in images in each of these layers may be held by different rightsholders; obtaining rights to one does not automatically grant rights to use another, and therefore all must be considered when analyzing the rights connected with an image. Rights to use images will vary depending not only on the identities of the layers of rightsholders, but also on other factors such as the terms of any bequest or applicable license.

1.3 Applicability of These Guidelines.

These guidelines apply to the creation of digital images and their use for educational purposes. The guidelines cover (1) pre-existing analog image collections and (2) newly acquired analog visual images. These guidelines do not apply to images acquired in digital form, or to images in the public domain, or to works for which the user has obtained the relevant and necessary rights for the particular use.

Only lawfully acquired copyrighted analog images (including original visual images, reproductions, published reproductions, and copies of published reproductions) may be digitized pursuant to these guidelines. These guidelines apply only to educational institutions, educators, scholars, students, and image collection curators engaging in instructional, research, or scholarly activities at educational institutions for educational purposes.

1.4 Definitions.

Educational institutions are defined as nonprofit organizations whose primary purpose is supporting the nonprofit instructional, research, and scholarly activities of educators, scholars, and students. Examples of educational institutions include K-12 schools, colleges, and universities; libraries, museums, hospitals, and other nonprofit institutions also are considered educational institutions under this definition when they engage in nonprofit instructional, research, or scholarly activities for educational purposes. **Educational purposes** are defined as non-commercial instruction or curriculum-based teaching by educators to students at nonprofit educational institutions, and **research and scholarly activities**, defined as planned non-commercial study or investigation directed toward making a contribution to a field of knowledge and non-commercial presentation of research findings at peer conferences, workshops, or seminars.

Educators are faculty, teachers, instructors, curators, librarians, archivists, or professional staff who engage in instructional, research, or scholarly activities for educational purposes as their assigned responsibilities at educational institutions; independent scholars also are considered educators under this definition when they offer courses at educational institutions. **Students** are participants in instructional, research, or scholarly activities for educational purposes at educational institutions.

A **digital image** is a visual work stored in binary code (bits and bytes). Examples include bitmapped images (encoded as a series of bits and bytes each representing a particular pixel or part of the image) and vector graphics (encoded as equations and/or algorithms representing lines and curves). An **analog image collection** is an assemblage of analog visual images systematically maintained by an educational institution for educational purposes in the form of slides, photographs, or other stand-alone visual media. A **pre-existing analog image collection** is one in existence as of [December 31, 1996]. A **newly acquired analog visual image** is one added to an institution's collection after [December 31, 1996].

A **visual online catalog** is a database consisting of thumbnail images of an institution's lawfully acquired image collection, together with any descriptive text including, for example, provenance and

rights information that is searchable by a number of fields, such as source. A **thumbnail image**, as used in a visual online catalog or image browsing display to enable visual identification of records in an educational institution's image collection, is a small scale, typically low resolution, digital reproduction which has no intrinsic commercial or reproductive value.

2. IMAGE DIGITIZATION AND USE BY EDUCATIONAL INSTITUTIONS:

This Section covers digitization by educational institutions of newly acquired analog visual images and Section 6 covers digitization of pre-existing analog image collections. Refer to the applicable section depending on whether you are digitizing newly acquired or pre-existing analog visual works.

2.1 Digitizing by Institutions: Newly Acquired Analog Visual Images.

An educational institution may digitize newly, lawfully, acquired analog visual images to support the permitted educational uses under these guidelines unless such images are readily available in usable digital form for purchase or license at a fair price. Images that are readily available in usable digital form for purchase or license at a fair price should not be digitized for addition to an institutional image collection without permission.

2.2 Creating Thumbnail Images.

An educational institution may create thumbnail images of lawfully acquired images for inclusion in a visual catalog for use at the institution. These thumbnail images may be combined with descriptive text in a visual catalog that is searchable by a number of fields, such as the source.

2.3 Access, Display, and Distribution on an Institution's Secure Electronic Network.

Subject to the time limitations in Section 2.4, an educational institution may display and provide access to images digitized under these guidelines through its own secure electronic network. When displaying digital images on such networks, an educational institution should implement technological controls and institutional policies to protect the rights of copyright owners, and use best efforts to make users aware of those rights. In addition, the educational institution must provide notice stating that digital images on its secure electronic network shall not be downloaded, copied, retained, printed, shared, modified, or otherwise used, except as provided for in the permitted educational uses under these guidelines.

2.3.1 Visual online catalog: An educational institution may display a visual online catalog, which includes the thumbnail images created as part of the institution's digitization process, on the institution's secure electronic network, and may provide access to such catalog by educators, scholars, and students affiliated with the educational institution.

2.3.2 Course compilations of digital images: An educational institution may display an educator's compilation of digital images (see also Section 3.1.2) on the institution's secure electronic network for classroom use, after-class review, or directed study, provided that there are technological limitations (such as a password or PIN) restricting access only to students enrolled in the course. The institution may display such images on its secure electronic network only during the semester or term in which that academic course is given.

2.3.3 Access, display, and distribution beyond the institution's secure electronic network: Electronic access to, or display or distribution of, images digitized under these guidelines, including the thumbnail images in the institution's visual online catalog, is not permitted beyond the institution's own electronic network, even for educational purposes. However, those portions of the visual online catalog which do not contain images digitized under these guidelines, such as public domain images and text, may be accessed, displayed, or distributed beyond the institution's own secure electronic network.

2.4 Time Limitations for Use of Images Digitized by Institutions from Newly Acquired Analog Visual Images.

An educational institution may use and retain in digital image collections images which are digitized from newly acquired analog visual images under these guidelines, as long as the retention and use comply with the following conditions:

2.4.1 Images digitized from a known source and not readily available in usable digital form for purchase or license at a fair price may be used for one academic term and may be retained in digital form while permission is being sought. Permission is required for uses beyond the initial use; if permission is not received, any use is outside the scope of these guidelines and subject to the four-factor fair use analysis (see Section 1.1).

2.4.2 Where the rightsholder of an image is unknown, a digitized image may be used for up to 3 years from first use, provided that a reasonable inquiry (see Section 5.2) is conducted by the institution seeking permission to digitize, retain, and reuse the digitized image. If, after 3 years, the educational institution is unable to identify sufficient information to seek permission, any further use of the image is outside the scope of these guidelines and subject to the four-factor fair use analysis (see Section 1.1).

3. USE BY EDUCATORS, SCHOLARS, AND STUDENTS:

Subject to the time limitations in Section 2.4, images digitized under these guidelines may be used by educators, scholars, and students as follows:

3.1 Educator Use of Images Digitized Under These Guidelines.

3.1.1 An educator may display digital images for educational purposes, including face-to-face teaching of curriculum-based courses, and research and scholarly activities at a non-profit educational institution.

3.1.2 An educator may compile digital images for display on the institution's secure electronic network (see also Section 2.3.2) to students enrolled in a course given by that educator for classroom use, after-class review, or directed study, during the semester or term in which the educator's related course is given.

3.2 Use of Images for Peer Conferences.

Educators, scholars, and students may use or display digital images in connection with lectures or presentations in their fields, including uses at non-commercial professional development seminars, workshops, and conferences where educators meet to discuss issues relevant to their disciplines or present works they created for educational purposes in the course of research, study, or teaching.

3.3 Use of Images for Publications.

These guidelines do not cover reproducing and publishing images in publications, including scholarly publications in print or digital form, for which permission is generally required. Before publishing any images under fair use, even for scholarly and critical purposes, scholars and scholarly publishers should conduct the four-factor fair use analysis (see Section 1.1).

3.4 Student Use of Images Digitized Under These Guidelines. Students may:

- Use digital images in an academic course assignment such as a term paper or thesis, or in fulfillment of degree requirements.
- Publicly display their academic work incorporating digital images in courses for which they are registered and during formal critiques at a nonprofit educational institution.
- Retain their academic work in their personal portfolios for later uses such as graduate school and employment applications.

Other student uses are outside the scope of these guidelines and are subject to the four-factor fair use analysis (see Section 1.1).

4. IMAGE DIGITIZATION BY EDUCATORS, SCHOLARS, AND STUDENTS FOR SPONTANEOUS USE:

Educators, scholars, and students may digitize lawfully acquired images to support the permitted educational uses under these guidelines if the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission. Images digitized for spontaneous use do not automatically become part of the institution's image collection. Permission must be sought for any reuse of such digitized images or their addition to the institution's image collection.

5. IMPORTANT REMINDERS AND FAIR USE LIMITATIONS UNDER THESE GUIDELINES:

5.1 Creation of Digital Image Collections.

When digitizing copyrighted images, as permitted under these guidelines, an educational institution should simultaneously conduct the process of seeking permission to retain and use the images.

Where the rightsholder is unknown, the institution should pursue and is encouraged to keep records of its reasonable inquiry (see Section 5.2). Rightsholders and others who are contacted are encouraged to respond promptly to inquiries.

5.2 Reasonable Inquiry.

A reasonable inquiry by an institution for the purpose of clearing rights to digitize and use digital images includes, but is not limited to, conducting each of the following steps: (1) checking any information within the control of the educational institution, including slide catalogs and logs, regarding the source of the image; (2) asking relevant faculty, departmental staff, and librarians, including visual resource collections administrators, for any information regarding the source of the image; (3) consulting standard reference publications and databases for information regarding the source of the image; and (4) consulting rights reproduction collectives and/or major professional associations representing image creators in the appropriate medium.

5.3 Attribution and Acknowledgment.

Educators, scholars, and students should credit the sources and display the copyright notice(s) with any copyright ownership information shown in the original source, for all images digitized by educators, scholars, and students, including those digitized under fair use. Crediting the source means adequately identifying the source of the work, giving a full bibliographic description where available (including the creator/author, title, publisher, and place and date of publication) or citing the electronic address if the

work is from a network source. Educators, scholars, and students should retain any copyright notice or other proprietary rights notice placed by the copyright owner or image archive or collection on the digital image, unless they know that the work has entered the public domain or that the copyright ownership has changed. In those cases when source credits and copyright ownership information cannot be displayed on the screen with the image for educational reasons (e.g., during examinations), this information should still be linked to the image.

5.4 Licenses and Contracts.

Institutions should determine whether specific images are subject to a license or contract; a license or contract may limit the uses of those images.

5.5 Portions from Single Sources Such as Published Compilations or Motion Pictures.

When digitizing and using individual images from a single source such as a published compilation (including but not limited to books, slide sets, and digital image collections), or individual frames from motion pictures or other audiovisual works, institutions and individuals should be aware that fair use limits the number and substantiality of the images that may be used from a single source. In addition, a separate copyright in a compilation may exist. Further, fair use requires consideration of the effect of the use on the potential market for or value of the copyrighted work. The greater the number and substantiality of images taken from a single source, the greater the risk that the use will not be fair use.

5.6 Portions of Individual Images.

Although the use of entire works is usually not permitted under fair use, it is generally appropriate to use images in their entirety in order to respect the integrity of the original visual image, as long as the limitations on use under these guidelines are in place. For purposes of electronic display, however, portions of an image may be used to highlight certain details of the work for educational purposes as long as the full image is displayed or linked to the portion.

5.7 Integrity of Images: Alterations.

In order to maintain the integrity of copyrighted works, educators, scholars, and students are advised to exercise care when making any alterations in a work under fair use for educational purposes such as criticism, comment, teaching, scholarship, and research. Furthermore, educators, scholars, and students should note the nature of any changes they make to original visual images when producing their own digital images.

5.8 Caution in Downloading Images from Other Electronic Sources.

Educators, scholars, and students are advised to exercise caution in using digital images downloaded from other sources, such as the Internet. Such digital environments contain a mix of works protected by copyright and works in the public domain, and some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

6. TRANSITION PERIOD FOR PRE-EXISTING ANALOG IMAGE COLLECTIONS:

6.1 Context.

Pre-existing visual resource collections in educational institutions (referred to in these guidelines as "pre-existing analog image collections") often consist of tens of thousands of images which have been acquired from a wide variety of sources over a period of many years. Many pre-existing collections lack adequate source information for older images and standards for accession practices are still evolving. In addition, publishers and vendors may no longer be in business, and information about specific images may no longer be available. For many images there may also be several layers of rightsholders: the rights in an original visual image are separate from rights in a reproduction of that

image and may be held by different rightsholders. All these factors complicate the process of locating rightsholders, and seeking permissions for pre-existing collections will be painstaking and time consuming.

However, there are significant educational benefits to be gained if pre-existing analog image collections can be digitized uniformly and systematically. Digitization will allow educators to employ new technologies using the varied and numerous images necessary in their current curricula. At the same time, rightsholders and educational institutions have concerns that images in some collections may have been acquired without permission or may be subject to restricted uses. In either case, there may be rightsholders whose rights and interests are affected by digitization and other uses.

The approach agreed upon by the representatives who developed these guidelines is to permit educational institutions to digitize lawfully acquired images as a collection and to begin using such images for educational purposes. At the same time, educational institutions should begin to identify the rightsholders and seek permission to retain and use the digitized images for future educational purposes. Continued use depends on the institutions' making a reasonable inquiry (see Section 5.2) to clear the rights in the digitized image. This approach seeks to strike a reasonable balance and workable solution for copyright holders and users who otherwise may not agree on precisely what constitutes fair use in the digital era.

6.2 Digitizing by Institutions: Images in Pre-Existing Analog Image Collections.

6.2.1 Educational institutions may digitize images from pre-existing analog image collections during a reasonable transition period of 7 years (the approximate useful life of a slide) from [December 31, 1996]. In addition, educators, scholars, and students may begin to use those digitized images during the transition period to support the educational uses under these guidelines. When digitizing images during the transition period, institutions should simultaneously begin seeking the permission to digitize, retain, and reuse all such digitized images.

6.2.2 Digitization from pre-existing analog image collections is subject to limitations on portions from single sources such as published compilations or motion pictures (see Section 5.5). Section 6 of these guidelines should not be interpreted to permit the systematic digitization of images from an educational institution's collections of books, films, or periodicals as part of any methodical process of digitizing images from the institution's pre-existing analog image collection during the transition period.

6.2.3 If, after a reasonable inquiry (see Section 5.2), an educational institution is unable to identify sufficient information to seek appropriate permission during the transition period, continued retention and use is outside the scope of these guidelines and subject to the four-factor fair use analysis (see Section 1.1). Similarly, digitization and use of such collections after the expiration of the transition period is outside the scope of these guidelines and subject to the four-factor fair use analysis (see Section 1.1).

APPENDIX A: ORGANIZATIONS ENDORSING THESE GUIDELINES:

[To be added after endorsements are received.]

APPENDIX B: ORGANIZATIONS PARTICIPATING IN GUIDELINE DEVELOPMENT:

[Being a participant does not necessarily mean that the organization has or will endorse these guidelines.]

American Association of Community Colleges
 American Association of Museums
 American Council of Learned Societies
 American Society of Media Photographers
 American Society of Picture Professionals
 Art Libraries Society of North America
 Association of American Publishers
 Association of American Universities
 Association of Art Museum Directors
 Association of College and Research Libraries
 Association of Research Libraries
 Coalition for Consumers' Picture Rights
 College Art Association
 Consortium of College and University Media Centers
 Corbis Corporation
 Creative Incentive Coalition
 The J. Paul Getty Trust
 Instructional Telecommunications Council
 Library of Congress/National Digital Library Project
 Medical Library Association
 National Council of Teachers of Mathematics
 National Endowment for the Arts
 National Endowment for the Humanities
 National Initiative for a Networked Cultural Heritage
 National Science Teachers Association
 Picture Agency Council of America
 Special Libraries Association
 U.S. Copyright Office
 Visual Resources Association

Discussion draft compiled by participants in the CONFU-Digital Image working group at meetings on 2/28, 4/9, 4/17, 4/22, 5/2, 5/16, 5/29, 6/3, 6/12, 6/21, 6/26, 7/16, 8/7, 9/4, 10/9, and 10/29/96. The working draft of these guidelines is held by Cameron Kitchin of the American Association of Museums (202/ 289-1818, cameron@usa.net and are available at www.americanmuse.org/aam or www.netready.com/fairuse.htm]

APPENDIX I

PROPOSAL FOR EDUCATIONAL FAIR USE GUIDELINES FOR DISTANCE LEARNING¹

Performance & Display of Audiovisual and Other Copyrighted Works

1.1 PREAMBLE

Fair use is a legal principle that provides certain limitations on the exclusive rights² of copyright holders. The purpose of these guidelines is to provide guidance on the application of fair use principles by educational institutions, educators, scholars and students who wish to use copyrighted works for distance education under fair use rather than by seeking authorization from the copyright owners for non-commercial purposes. The guidelines apply to fair use only in the context of copyright.

There is no simple test to determine what is fair use. Section 107 of the Copyright Act³ sets forth the four fair use factors which should be considered in each instance, based on the particular facts of a given case, to determine whether a use is a "fair use": (1) the purpose and character of the use, including whether use is of a commercial nature or is for nonprofit educational purposes, (2) the nature of the copyrighted work, (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole, and (4) the effect of the use upon the potential market for or value of the copyrighted work.

While only the courts can authoritatively determine whether a particular use is a fair use, these guidelines represent the endorsers' consensus of conditions under which fair use should generally apply and examples of when permission is required. Uses that exceed these guidelines may or may not be fair use. The endorsers also agree that the more one exceeds these guidelines, the greater the risk that fair use does not apply.

The limitations and conditions set forth in these guidelines do not apply to works in the public domain -- such as U.S. government works or works on which the copyright has expired for which there are no copyright restrictions -- or to works for which the individual or institution has obtained permission for the particular use. Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance.

The participants who developed these guidelines met for an extended period of time and the result represents their collective understanding in this complex area. Because digital technology is in a dynamic phase, there may come a time when it is necessary to revise these guidelines. Nothing in these guidelines should be construed to apply to the fair use privilege in any context outside of educational and scholarly uses of distance education. The guidelines do not cover non-educational or commercial digitization or use at any time, even by nonprofit educational institutions. The guidelines are not

¹ The Guidelines shall not be read to supersede other preexisting educational use guidelines that deal with the 1976 Copyright Act.

² See Section 106 of the Copyright Act.

³ The Copyright Act of 1976, as amended, is codified at 17 U.S.C. *et seq.*

intended to cover fair use of copyrighted works in other educational contexts such as educational multimedia projects,⁴ electronic reserves or digital images which may be addressed in other fair use guidelines.

This Preamble is an integral part of these guidelines and should be included whenever the guidelines are reprinted or adopted by organizations and educational institutions. Users are encouraged to reproduce and distribute these guidelines freely without permission; no copyright protection of these guidelines is claimed by any person or entity.

1.2 BACKGROUND

Section 106 of the Copyright Act defines the right to perform or display a work as an exclusive right of the copyright holder. The Act also provides, however, some exceptions under which it is not necessary to ask the copyright holder's permission to perform or display a work. One is the fair use exception contained in Section 107, which is summarized in the preamble. Another set of exceptions, contained in Sections 110(1)-(2), permit instructors and students to perform or display copyrighted materials without permission from the copyright holder under certain carefully defined conditions.

Section 110(1) permits teachers and students in a nonprofit educational institution to perform or display any copyrighted work in the course of face-to-face teaching activities. In face-to-face instruction, such teachers and students may act out a play, read aloud a poem, display a cartoon or a slide, or play a videotape so long as the copy of the videotape was lawfully obtained. In essence, Section 110(1) permits performance and display of any kind of copyrighted work, and even a complete work, as a part of face-to-face instruction.

Section 110(2) permits performance of a nondramatic literary or musical work or display of any work as a part of a transmission in some distance learning contexts, under the specific conditions set out in that Section. Section 110(2) does not permit performance of dramatic or audiovisual works as a part of a transmission. The statute further requires that the transmission be directly related and of material assistance to the teaching content of the transmission and that the transmission be received in a classroom or other place normally devoted to instruction or by persons whose disabilities or special circumstances prevent attendance at a classroom or other place normally devoted to instruction.

The purpose of these guidelines is to provide guidance for the performance and display of copyrighted works in some of the distance learning environments that have developed since the enactment of Section 110 and that may not meet the specific conditions of Section 110(2). They permit instructors who meet the conditions of these guidelines to perform and display copyrighted works as if they were engaged in face-to-face instruction. They may, for example, perform an audiovisual work, even a complete one, in a one-time transmission to students so long as they meet the other conditions of these guidelines. They may not, however, allow such transmissions to result in copies for students unless they have permission to do so, any more than face-to-face instructors may make copies of audiovisual works for their students without permission.

The developers of these guidelines agree that these guidelines reflect the principles of fair use in combination with the specific provisions of Sections 110(1)-(2). In most respects, they expand the provisions of Section 110(2). In some cases, students and teachers in distance learning situations may

⁴ In general, multimedia projects are stand-alone, interactive programs incorporating both original and pre-existing copyrighted works in various media formats, while visual image archives are databases of individual visual images from which images intended for educational uses may be selected for display.

want to perform and display only small portions of copyrighted works that may be permissible under the fair use doctrine even in the absence of these guidelines. Given the specific limitations set out in Section 110(2), however, the participants believe that there may be a higher burden of demonstrating that fair use under Section 107 permits performance or display of more than a small portion of a copyrighted work under circumstances not specifically authorized by Section 110(2).

1.3 DISTANCE LEARNING IN GENERAL

Broadly viewed, distance learning is an educational process that occurs when instruction is delivered to students physically remote from the location or campus of program origin, the main campus, or the primary resources that support instruction. In this process, the requirements for a course or program may be completed through remote communications with instructional and support staff including either one-way or two-way written, electronic or other media forms.

Distance education involves teaching through the use of telecommunications technologies to transmit and receive various materials through voice, video and data. These avenues of teaching often constitute instruction on a closed system limited to students who are pursuing educational opportunities as part of a systematic teaching activity or curriculum and are officially enrolled in the course. Examples of such analog and digital technologies include telecourses, audio and video teleconferences, closed broadcast and cable television systems, microwave and ITFS, compressed and full-motion video, fiber optic networks, audiographic systems, interactive videodisk, satellite-based and computer networks.

2. APPLICABILITY AND ELIGIBILITY

2.1 APPLICABILITY OF THE GUIDELINES

These guidelines apply to the performance of lawfully acquired copyrighted works not included under Section 110(2) (such as a dramatic work or an audiovisual work) as well as to uses not covered for works that are included in Section 110(2). The covered uses are (1) live interactive distance learning classes (i.e., a teacher in a live class with all or some of the students at remote locations) and (2) faculty instruction recorded without students present for later transmission. They apply to delivery via satellite, closed circuit television or a secure computer network. They do not permit circumventing anti-copying mechanisms embedded in copyrighted works.

These guidelines do not cover asynchronous delivery of distance learning over a computer network, even one that is secure and capable of limiting access to students enrolled in the course through PIN or other identification system. Although the participants believe fair use of copyrighted works applies in some aspects of such instruction, they did not develop fair use guidelines to cover these situations because the area is so unsettled. The technology is rapidly developing, educational institutions are just beginning to experiment with these courses, and publishers and other creators of copyrighted works are in the early stages of developing materials and experimenting with marketing strategies for computer network delivery of distance learning materials. Thus, consideration of whether fair use guidelines are needed for asynchronous computer network delivery of distance learning courses perhaps should be revisited in three to five years.

In some cases, the guidelines do not apply to specific materials because no permission is required, either because the material to be performed or displayed is in the public domain, or because the instructor or the institution controls all relevant copyrights. In other cases, the guidelines do not apply because the

copyrighted material is already subject to a specific agreement. For example, if the material was obtained pursuant to a license, the terms of the license apply. If the institution has received permission to use copyrighted material specifically for distance learning, the terms of that permission apply.

2.2 ELIGIBILITY

2.2.1 ELIGIBLE EDUCATIONAL INSTITUTION: These guidelines apply to nonprofit educational institutions at all levels of instruction whose primary focus is supporting research and instructional activities of educators and students but only to their nonprofit activities. They also apply to government agencies that offer instruction to their employees.

2.2.2 ELIGIBLE STUDENTS: Only students officially enrolled for the course at an eligible institution may view the transmission that contains works covered by these guidelines. This may include students enrolled in the course who are currently matriculated at another eligible institution. These guidelines are also applicable to government agency employees who take the course or program offered by the agency as a part of their official duties.

3. WORKS PERFORMED FOR INSTRUCTION

3.1 RELATION TO INSTRUCTION: Works performed must be integrated into the course, must be part of systematic instruction and must be directly related and of material assistance to the teaching content of the transmission. The performance may not be for entertainment purposes.

4. TRANSMISSION AND RECEPTION

4.1 TRANSMISSION (DELIVERY): Transmission must be over a secure system with technological limitations on access to the class or program such as a PIN number, password, smartcard or other means of identification of the eligible student.

4.2 RECEPTION: Reception must be in a classroom or other similar place normally devoted to instruction or any other site where the reception can be controlled by the eligible institution. In all such locations, the institution must utilize technological means to prevent copying of the portion of the class session that contains performance of the copyrighted work.

5. LIMITATIONS:

5.1 ONE TIME USE: Performance of an entire copyrighted work or a large portion thereof may be transmitted only once for a distance learning course. For subsequent performances, displays or access, permission must be obtained.

5.2 REPRODUCTION AND ACCESS TO COPIES

5.2.1 RECEIVING INSTITUTION: The institution receiving the transmission may record or copy classes that include the performance of an entire copyrighted work, or a large portion thereof, and retain the recording or copy for up to 15 consecutive class days (i.e., days in which the institution is open for regular instruction) for viewing by students enrolled in the course.⁵ Access to the recording or copy for such viewing must be in a controlled environment such as a classroom, library or media center, and the institution must prevent copying by students of the portion of the class session that contains the performance of the copyrighted work. If the institution wants to retain the recording or copy of the

transmission for a longer period of time, it must obtain permission from the rightsholder or delete the portion which contains the performance of the copyrighted work.

5.2.2 TRANSMITTING INSTITUTION: The transmitting institution may, under the same terms, reproduce and provide access to copies of the transmission containing the performance of a copyrighted work; in addition, it can exercise reproduction rights provided in Section 112(b).

6. MULTIMEDIA

6.1 COMMERCIALY PRODUCED MULTIMEDIA: If the copyrighted multimedia work was obtained pursuant to a license agreement, the terms of the license apply. If, however, there is no license, the performance of the copyrighted elements of the multimedia works may be transmitted in accordance with the provisions of these guidelines.

7. EXAMPLES OF WHEN PERMISSION IS REQUIRED:

7.1 Commercial uses: Any commercial use including the situation where a nonprofit educational institution is conducting courses for a for-profit corporation for a fee such as supervisory training courses or safety training for the corporation's employees.

7.2 Dissemination of recorded courses: An institution offering instruction via distance learning under these guidelines wants to further disseminate the recordings of the course or portions that contain performance of a copyrighted work.

7.3 Uncontrolled access to classes: An institution (agency) wants to offer a course or program that contains the performance of copyrighted works to non-employees.

7.4 Use beyond the 15-day limitation: An institution wishes to retain the recorded or copied class session that contains the performance of a copyrighted work not covered in Section 110(2). (It also could delete the portion of the recorded class session that contains the performance).

APPENDIX A: ORGANIZATIONS ENDORSING THESE GUIDELINES

[To be added after endorsements are received.]

APPENDIX B: ORGANIZATIONS PARTICIPATING IN GUIDELINE DEVELOPMENT

[Being a participant does not necessarily mean that the organization has or will endorse these guidelines.]

American Association of Community Colleges
American Association of Law Libraries
American Council of Learned Societies
Association of American Publishers
Association of American Universities
Association of College and Research Libraries
Association of Research Libraries
Broadcast Music, Inc.
Consortium of College and University Media Centers
Creative Incentive Coalition
Houghton Mifflin
Indiana Partnership for Statewide Education
John Wiley & Sons, Inc.
Kent State University
National Association of State Universities and Land Grant Colleges
National Geographic Society
National School Board Association
Special Libraries Association
State University of New York
U.S. Copyright Office
University of Texas System
Viacom, Inc.

APPENDIX J

PROPOSAL FOR FAIR USE GUIDELINES FOR EDUCATIONAL MULTIMEDIA¹

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1. INTRODUCTION

1.1 Preamble

Fair use is a legal principle that provides certain limitations on the exclusive rights² of copyright holders. The purpose of these guidelines is to provide guidance on the application of fair use principles by educators, scholars and students who develop multimedia projects using portions of copyrighted works under fair use rather than by seeking authorization for non-commercial educational uses. These guidelines apply only to fair use in the context of copyright and to no other rights.

There is no simple test to determine what is fair use. Section 107 of the Copyright Act³ sets forth the four fair use factors which should be considered in each instance, based on particular facts of a given case, to determine whether a use is a "fair use": (1) the purpose and character of use, including whether such use is of a commercial nature or is for nonprofit educational purposes, (2) the nature of the copyrighted work, (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole, and (4) the effect of the use upon the potential market for or value of the copyrighted work.

¹ These Guidelines shall not be read to supersede other preexisting education fair use guidelines that deal with the Copyright Act of 1976.

² See Section 106 of the Copyright Act.

³ The Copyright Act of 1976, as amended, is codified at 17 U.S.C. § 101 *et seq.*

While only the courts can authoritatively determine whether a particular use is fair use, these guidelines represent the endorsers' consensus of conditions under which fair use should generally apply and examples of when permission is required. Uses that exceed these guidelines may or may not be fair use. The endorsers also agree that the more one exceeds these guidelines, the greater the risk that fair use does not apply.

The limitations and conditions set forth in these guidelines do not apply to works in the public domain -- such as U.S. Government works or works on which copyright has expired for which there are no copyright restrictions -- or to works for which the individual or institution has obtained permission for the particular use. Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance.

The participants who developed these guidelines met for an extended period of time and the result represents their collective understanding in this complex area. Because digital technology is in a dynamic phase, there may come a time when it is necessary to review the guidelines. Nothing in these guidelines shall be construed to apply to the fair use privilege in any context outside of educational and scholarly uses of educational multimedia projects. These guidelines do not cover noneducational or commercial digitization or use at any time, even by non-profit educational institutions. These guidelines are not intended to cover fair use of copyrighted works in other educational contexts such as digital images or archives, distance education, or electronic reserves, which may be addressed in other fair use guidelines.⁴

This Preamble is an integral part of these guidelines and should be included whenever the guidelines are reprinted or adopted by organizations and educational institutions. Users are encouraged to reproduce and distribute these guidelines freely without permission; no copyright protection of these guidelines is claimed by any person or entity.

1.2 Background

These guidelines clarify the application of fair use of copyrighted works as teaching methods are adapted to new learning environments. Educators have traditionally brought copyrighted books, videos, slides, sound recordings and other media into the classroom, along with accompanying projection and playback equipment. Multimedia creators integrated these individual instructional resources with their own original works in a meaningful way, providing compact educational tools that allow great flexibility in teaching and learning. Material is stored so that it may be retrieved in a nonlinear fashion, depending on the needs or interests of learners. Educators can use multimedia projects to respond spontaneously to students' questions by referring quickly to relevant portions. In addition, students can use multimedia projects to pursue independent study according to their needs or at a pace appropriate to their capabilities. Educators and students want guidance about the application of fair use principles when creating their own multimedia projects to meet specific instructional objectives.

⁴ In general, multimedia projects are stand-alone, interactive programs incorporating both original and pre-existing copyrighted works in various media formats, while visual image archives are databases of individual visual images from which images intended for educational uses may be selected for display.

1.3 **Applicability of These Guidelines** (Certain basic terms are identified in bold and defined in this section.)

These guidelines apply to the use, without permission, of portions of lawfully acquired copyrighted works in educational multimedia projects which are created by educators or students as part of a systematic learning activity by nonprofit educational institutions. **Educational multimedia projects** created under these guidelines incorporate students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to, motion media, music, text material, graphics, illustrations, photographs and digital software which are combined into an integrated presentation. **Educational institutions** are defined as nonprofit organizations whose primary focus is supporting research and instructional activities of educators and students for noncommercial purposes.

For the purposes of these guidelines, **educators** include faculty, teachers, instructors and others who engage in scholarly, research and instructional activities for educational institutions. The copyrighted works used under these guidelines are **lawfully acquired** if obtained by the institution or individual through lawful means such as purchase, gift or license agreement but not pirated copies. Educational multimedia projects which incorporate portions of copyrighted works under these guidelines may be used only for **educational purposes** in systematic learning activities including use in connection with non-commercial curriculum-based learning and teaching activities by educators to students enrolled in courses at nonprofit educational institutions or otherwise permitted under Section 3. While these guidelines refer to the creation and use of educational multimedia projects, readers are advised that in some instances other fair use guidelines such as those for off-air taping may be relevant.

2. **PREPARATION OF EDUCATIONAL MULTIMEDIA PROJECTS USING PORTIONS OF COPYRIGHTED WORKS**

These uses are subject to the Portion Limitations listed in Section 4. They should include proper attribution and citation as defined in Sections 6.2.

2.1 **By Students:**

Students may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for a specific course.

2.2 **By Educators for Curriculum-Based Instruction:**

Educators may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for their own teaching tools in support of curriculum-based instructional activities at educational institutions.

3. PERMITTED USES OF EDUCATIONAL MULTIMEDIA PROJECTS CREATED UNDER THESE GUIDELINES

Uses of educational multimedia projects created under these guidelines are subject to the Time, Portion, Copying and Distribution Limitations listed in Section 4.

3.1 Student Use:

Students may perform and display their own educational multimedia projects created under Section 2 of these guidelines for educational uses in the course for which they were created and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews.

3.2 Educator Use for Curriculum-Based Instruction:

Educators may perform and display their own educational multimedia projects created under Section 2 for curriculum-based instruction to students in the following situations:

3.2.1 for face-to-face instruction,

3.2.2 assigned to students for directed self-study,

3.2.3 for remote instruction to students enrolled in curriculum-based courses and located at remote sites, provided over the educational institution's secure electronic network in real-time, or for after class review or directed self-study, provided there are technological limitations on access to the network and educational multimedia project (such as a password or PIN) and provided further that the technology prevents the making of copies of copyrighted material.

If the educational institution's network or technology used to access the educational multimedia project created under Section 2 of these guidelines cannot prevent duplication of copyrighted material, students or educators may use the multimedia educational projects over an otherwise secure network for a period of only 15 days after its initial real-time remote use in the course of instruction or 15 days after its assignment for directed self-study. After that period, one of the two use copies of the educational multimedia project may be placed on reserve in a learning resource center, library or similar facility for on-site use by students enrolled in the course. Students shall be advised that they are not permitted to make their own copies of the educational multimedia project.

3.3 Educator Use for Peer Conferences:

Educators may perform or display their own educational multimedia projects created under Section 2 of these guidelines in presentations to their peers, for example, at workshops and conferences.

3.4 Educator Use for Professional Portfolio

Educators may retain educational multimedia projects created under Section 2 of these guidelines in their personal portfolios for later personal uses such as tenure review or job interviews.

4. LIMITATIONS - TIME, PORTION, COPYING AND DISTRIBUTION

The preparation of educational multimedia projects incorporating copyrighted works under Section 2, and the use of such projects under Section 3, are subject to the limitations noted below.

4.1 Time Limitations

Educators may use their educational multimedia projects created for educational purposes under Section 2 of these guidelines for teaching courses, for a period of up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the production. Students may use their educational multimedia projects as noted in Section 3.1.

4.2 Portion Limitations

Portion limitations mean the amount of a copyrighted work that can reasonably be used in educational multimedia projects under these guidelines regardless of the original medium from which the copyrighted works are taken. **In the aggregate** means the total amount of copyrighted material from a single copyrighted work that is permitted to be used in an educational multimedia project without permission under these guidelines. These limitations apply cumulatively to each educator's or student's multimedia project(s) for the same academic semester, cycle or term. All students should be instructed about the reasons for copyright protection and the need to follow these guidelines. It is understood, however, that students in kindergarten through grade six may not be able to adhere rigidly to the portion limitations in this section in their independent development of educational multimedia projects. In any event, each such project retained under Sections 3.1 and 4.3 should comply with the portion limitations in this section.

4.2.1 Motion Media

Up to 10% or 3 minutes, whichever is less, in the aggregate of a copyrighted motion media work may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 2 of these guidelines.

4.2.2 Text Material

Up to 10% or 1000 words, whichever is less, in the aggregate of a copyrighted work consisting of text material may be reproduced or otherwise incorporated as part of an educational

multimedia project created under Section 2 of these guidelines. An entire poem of less than 250 words may be used, but no more than three poems by one poet, or five poems by different poets from any anthology may be used. For poems of greater length, 250 words may be used but no more than three excerpts by a poet, or five excerpts by different poets from a single anthology may be used.

4.2.3 Music, Lyrics, and Music Video

Up to 10%, but in no event more than 30 seconds, of the music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work), whether the musical work is embodied in copies, or audio or audiovisual works, may be reproduced or otherwise incorporated as a part of a multimedia project created under Section 2. Any alterations to a musical work shall not change the basic melody or the fundamental character of the work.

4.2.4 Illustrations and Photographs

The reproduction or incorporation of photographs and illustrations is more difficult to define with regard to fair use because fair use usually precludes the use of an entire work. Under these guidelines a photograph or illustration may be used in its entirety but no more than 5 images by an artist or photographer may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 2. When using photographs and illustrations from a published collective work, not more than 10% or 15 images, whichever is less, may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 2.

4.2.5 Numerical Data Sets

Up to 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or data table may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 2 of these guidelines. A field entry is defined as a specific item of information, such as a name or Social Security number, in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.

4.3 Copying and Distribution Limitations

Only a limited number of copies, including the original, may be made of an educator's educational multimedia project. For all of the uses permitted by Section 3, there may be no more than two use copies only one of which may be placed on reserve as described in Section 3.2.3. An additional copy may be made for preservation purposes but may only be used or copied to replace a use copy that has been lost, stolen, or damaged. In the case of a jointly created educational multimedia project, each principal creator may retain one copy but only for the purposes described in Sections 3.3 and 3.4 for educators and in Section 3.1 for students.

5. EXAMPLES OF WHEN PERMISSION IS REQUIRED

5.1 Using Multimedia Projects for Non-Educational or Commercial Purposes

Educators and students must seek individual permissions (licenses) before using copyrighted works in educational multimedia projects for commercial reproduction and distribution.

5.2 Duplication of Multimedia Projects Beyond Limitations Listed in These Guidelines

Even for educational uses, educators and students must seek individual permissions for all copyrighted works incorporated in their personally created educational multimedia projects before replicating or distributing beyond the limitations listed in Section 4.3.

5.3 Distribution of Multimedia Projects Beyond Limitations Listed in These Guidelines

Educators and students may not use their personally created educational multimedia projects over electronic networks, except for uses as described in Section 3.2.3, without obtaining permissions for all copyrighted works incorporated in the program.

6. IMPORTANT REMINDERS

6.1 Caution in Downloading Material from the Internet

Educators and students are advised to exercise caution in using digital material downloaded from the Internet in producing their own educational multimedia projects, because there is a mix of works protected by copyright and works in the public domain on the network. Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment and, furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

6.2 Attribution and Acknowledgement

Educators and students are reminded to credit the sources and display the copyright notice and copyright ownership information if this is shown in the original source, for all works incorporated as part of educational multimedia projects prepared by educators and students, including those prepared under fair use. Crediting the source must adequately identify the source of the work, giving a full bibliographic description where available (including author, title, publisher, and place and date of publication). The copyright ownership information includes the copyright notice (©, year of first publication and name of the copyright holder).

The credit and copyright notice information may be combined and shown in a separate section of the educational multimedia project (e.g., credit section) except for images incorporated into the project for the uses described in Section 3.2.3. In such cases, the copyright notice and the

name of the creator of the image must be incorporated into the image when, and to the extent, such information is reasonably available; credit and copyright notice information is considered incorporated" if it is attached to the image file and appears on the screen when the image is viewed. In those cases when displaying source credits and copyright ownership information on the screen with the image would be mutually exclusive with an instructional objective (e.g. during examinations in which the source credits and/or copyright information would be relevant to the examination questions), those images may be displayed without such information being simultaneously displayed on the screen. In such cases, this information should be linked to the image in a manner compatible with such instructional objectives.

6.3 Notice of Use Restrictions

Educators and students are advised that they must include on the opening screen of their multimedia project and any accompanying print material a notice that certain materials are included under the fair use exemption of the U.S. Copyright Law and have been prepared according to the educational multi-media fair use guidelines and are restricted from further use.

6.4 Future Uses Beyond Fair Use

Educators and students are advised to note that if there is a possibility that their own educational multimedia project incorporating copyrighted works under fair use could later result in broader dissemination, whether or not as commercial product, it is strongly recommended that they take steps to obtain permissions during the development process for all copyrighted portions rather than waiting until after completion of the project.

6.5 Integrity of Copyrighted Works: Alterations

Educators and students may make alterations in the portions of the copyrighted works they incorporate as part of an educational multimedia project only if the alterations support specific instructional objectives. Educators and students are advised to note that alterations have been made.

6.6 Reproduction or Decompilation of Copyrighted Computer Programs

Educators and students should be aware that reproduction or decompilation of copyrighted computer programs and portions thereof, for example the transfer of underlying code or control mechanisms, even for educational uses, are outside the scope of these guidelines.

6.7 Licenses and Contracts

Educators and students should determine whether specific copyrighted works, or other data or information are subject to a license or contract. Fair use and these guidelines shall not preempt or supersede licenses and contractual obligations.

APPENDIX A: (Endorsements and letters of support received as of November 25, 1996)

1. ORGANIZATIONS ENDORSING THESE GUIDELINES:

Agency for Instructional Technology (AIT)
 American Association of Community Colleges (AACC)
 American Society of Journalists and Authors (ASJA)
 American Society of Media Photographers, Inc. (ASMP)
 American Society of Composers, Authors and Publishers (ASCAP)
 Association for Educational Communications and Technology (AECT)
 Association for Information Media and Equipment (AIME)
 Association of American Publishers (AAP)
 Association of American Colleges and Universities (AAC&U)
 Association of American University Presses, Inc. (AAUP)
 Broadcast Music, Inc. (BMI)
 Consortium of College and University Media Centers (CCUMC)
 Creative Incentive Coalition (CIC)
 Information Industry Association (IIA)
 Instructional Telecommunications Council (ITC)
 Maricopa Community Colleges/Phoenix
 Motion Picture Association of America (MPAA)
 Music Publishers' Association of the United States (MPA)
 Recording Industry Association of America (RIAA)
 Software Publishers Association (SPA)

2. COMPANIES AND INSTITUTIONS ENDORSING THESE GUIDELINES:

Houghton Mifflin
 John Wiley & Sons, Inc.
 McGraw-Hill
 Time Warner, Inc.

3. U.S. GOVERNMENTAL AGENCIES SUPPORTING THESE GUIDELINES:

U.S. National Endowment for the Arts (NEA)
 U.S. Copyright Office
 U.S. Patent and Trademark Office

APPENDIX B: ORGANIZATIONS PARTICIPATING IN GUIDELINE DEVELOPMENT:

[Being a participant does not necessarily mean the organization has or will endorse these guidelines.]

Agency for Instructional Technology (AIT)
 American Association of Community Colleges (AACC)
 American Association for Higher Education (AAHE)
 American Library Association (ALA)
 American Society of Journalists and Authors (ASJA)
 American Society of Media Photographers (ASMP)

Artists Rights Foundation
 Association of American Colleges and Universities (AAC&U)
 Association of American Publishers (AAP)
 -Harvard University Press
 -Houghton Mifflin
 -McGraw-Hill
 -Simon and Schuster
 -Worth Publishers
 Association of College and Research Libraries (ACRL)
 Association for Educational Communications and Technology (AECT)
 Association for Information Media and Equipment (AIME)
 Association of Research Libraries (ARL)
 Authors Guild, Inc.
 Broadcast Music, Inc. (BMI)
 Consortium of College and University Media Centers (CCUMC)
 Copyright Clearance Center (CCC)
 Creative Incentive Coalition (CIC)
 Directors Guild of America (DGA)
 European American Music Distributors Corp.
 Educational institutions participating in guideline discussion
 -American University
 -Carnegie Mellon University
 -City College/City University of New York
 -Kent State University
 -Maricopa Community Colleges/Phoenix
 -Pennsylvania State University
 -University of Delaware
 Information Industry Association (IIA)
 Instructional Telecommunications Council (ITC)
 International Association of Scientific, Technical and Medical Publishers
 Motion Picture Association of America (MPAA)
 Music Publishers Association (MPA)
 National Association of State Universities and Land-Grant Colleges (NASULGC)
 National Council of Teachers of Mathematics (NCTM)
 National Educational Association (NEA)
 National Music Publishers Association (NMPA)
 National School Boards Association (NSBA)
 National Science Teachers Association (NSTA)
 National Video Resources (NVR)
 Public Broadcasting System (PBS)
 Recording Industry Association of America (RIAA)
 Software Publishers Association (SPA)
 Time Warner, Inc.
 U.S. Copyright Office
 U.S. National Endowment for the Arts (NEA)
 Viacom, Inc.

**Prepared by the Educational Multimedia Fair Use Guidelines Development Committee,
 July 17, 1996**

INFORMATION RELATED TO THE FAIR USE GUIDELINES FOR EDUCATIONAL MULTIMEDIA

The Association of American Publishers (AAP) membership includes over 200 publishers.

The Information Industry Association (IIA) membership includes companies involved in the creation, distribution and use of information products, services and technologies.

The Software Publishers Association (SPA) membership includes 1200 software publishers.

The Creative Incentive Coalition membership includes the following organizations:

- Association of American Publishers
- Association of Independent Television Stations
- Association of Test Publishers
- Business Software Alliance
- General Instrument Corporation
- Information Industry Association
- Information Technology Industry Council
- Interactive Digital Software Association
- Magazine Publishers of America
- The McGraw-Hill Companies
- Microsoft Corporation
- Motion Picture Association of America, Inc.
- National Cable Television Association
- National Music Publisher's Association
- Newspaper Association of America
- Recording Industry Association of America
- Seagram/MCA, Inc.
- Software Publishers Association
- Time Warner, Inc.
- Turner Broadcasting System, Inc.
- West Publishing Company
- Viacom, Inc.

MULTIMEDIA GUIDELINES WEB SITES. The Proposal for Fair Use Guidelines for Educational Multimedia Document with a current list of endorsers can be found on the following web sites:

<http://www.libraries.psu.edu/avs/>

APPENDIX K

**STATEMENT ON USE OF COPYRIGHTED COMPUTER PROGRAMS
(SOFTWARE) IN LIBRARIES -- SCENARIOS**

[ADOPTED BY CONFU ON SEPTEMBER 6, 1996]

These scenarios illustrate some uses of computer programs and multimedia works by nonprofit libraries, including those at nonprofit educational institutions, for administrative purposes and for on-site and off-site circulation, in light of the following provisions of the Copyright Act of 1976:

Section 107: Fair use privilege for certain unauthorized reproduction, distribution, adaptation, and public performance and display.

Section 109(b): Exemption from the software rental right for lending by nonprofit educational institutions, and exemption from the software rental right for lending by nonprofit libraries for nonprofit purposes.

Section 117: Exemption for archival "back-up" copies and adaptations essential for using computer program with machine.

Please note that the Guidelines for Classroom Copying in Not-for-Profit Educational Institutions are explicitly limited to books and periodicals, and do not encompass other types of copyrighted works, including computer programs.

1. Library Administration

General Rule: Unauthorized reproduction, distribution, or adaptation of computer programs for library administration is governed by the same rules as other end-uses, and will be considered infringement unless it constitutes fair use under Section 107 or it is exempted under Section 117.

a. A nonprofit university library purchases a spread sheet program for managing accounts payable, and the MIS director adapts the program so it can be used on the library's computers.

This use qualifies for the Section 117 exemption. The owner of a lawfully acquired copy of a computer program is permitted to make an adaptation of a computer program "as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner." If the library licenses, rather than purchases, the program, then it should refer to the license agreement or contact the copyright owner before making an adaptation.

b. The administrator of a nonprofit university library licenses a spread sheet program for managing accounts payable, but the university business office uses a different program. The library administrator prepares monthly reports with the program, which are sent to the university's business office on diskette or via e-mail with a copy of the library's spread sheet program.

No fair use defense or statutory exemption is available. Because the copy sent to the university business office was not lawfully made, this does not qualify for the nonprofit library lending exemption, or the nonprofit educational lending exemption permitting transfer of possession of computer programs to "faculty, staff, and students."

c. Assume the same facts as in (b) above, except that the library administrator does not send the monthly report with a copy of the library's spread sheet program, but rather reformats the monthly report in text for transmission to the university business office.

Fair use defense or statutory exemptions are not necessary. Because the library administrator has not made an unauthorized reproduction or distribution of the spread sheet program, it has not infringed the copyright.

d. A nonprofit library purchases a single-machine license for a spreadsheet program to be used in calculating employee payroll. A library employee opens the sealed envelope containing the CD-ROM or diskette and installs the computer program on a computer without reading the license agreement. Later, he makes a copy of the program and gives it to a colleague on the library staff, who loads it on her computer.

No fair use defense exists under Section 107. The library has infringed the copyright by making an unauthorized reproduction of the computer program, and there are no other statutory exemptions available.

e. A librarian busy archiving the papers of a noted alumna decides to work at home. To keep track of his hours, he makes a copy of the spread sheet program installed on his office computer and takes it home to install on his home computer.

No fair use defense or statutory exemption is available. Because many end-users now want to work at home as well as the office, many business application publishers now offer "single user licenses," which permit the licensee to install and use the computer program on both an office and a home computer provided the two copies are not in use simultaneously.

f. A librarian licenses and installs a spread sheet program to manage her budget. Two years later, the librarian licenses a functional upgrade for the program, installs it on her office computer, and installs the older version alone on her home computer.

No statutory exemption or fair use defense exists if a valid license for the functional upgrade prohibits transfer of the older version to another machine or another user. Software license agreements distinguish between functional upgrades of licensed software and the current

version licensed by new customers. Because functional upgrades are licensed on the assumption that the customer has already licensed a previous version of the software, their prices are usually about two-thirds lower than the price of the current title for new customers. Therefore, most functional upgrade licenses restrict or prohibit the transfer of the previous version to another user or machine.

There is disagreement about whether the same result would be reached if the functional upgrade and the older version are part of the library collection.

g. Assume the same facts as in (f), except that the librarian obtains a full price license to the new version of the program, rather than the less expensive functional upgrade, for her office computer, and installs the older version alone on her home computer.

It is unnecessary to consider fair use or statutory exemptions. Because the librarian has licensed two complete and independent programs, the copyright in the programs has not been infringed.

2. Lending Copies of Computer Programs to Library Patrons

General Rule: Provided that the required warning is placed on lawfully acquired copies of computer programs, they may be lent by nonprofit libraries to patrons for nonprofit purposes under Section 109(b) of the Copyright Act. In looking at these scenarios, keep in mind that the library patron may be liable for copyright infringement even if the library is not.

a. A nonprofit library possesses one copy of a popular word processing program pursuant to a valid license, affixes to the package the required copyright warning, and makes it available at the circulation desk for patrons to borrow.

This is permissible under Section 109(b)(2), provided that the lending library is unaware or has no substantial reason to believe that the computer software is lent for a for-profit purpose.

b. Assuming the same facts as in (a). A student working on an English literature research paper borrows the word processing program and installs it on her personal computer. Later, when the word processing program is overdue, she returns the packaged copy to the library, but keeps the copy installed on her computer to complete the research paper.

Statutory exemptions are available to the library, but not to the student. The Section 109(b)(2) lending exemptions permit "transfer of possession" and "lending" of computer programs by schools and libraries for users, but not unauthorized reproduction by patrons. The library would not face liability unless contributory infringement or vicarious liability is proved, such as demonstrating that the library encouraged patrons to copy.

c. A nonprofit library loans its copy of applications software that was purchased, not licensed. The required warning is affixed to the package.

This is permissible under 109(b)(2) provided that the borrowing library is unaware or has no substantial reason to believe that the software is to be used for for-profit purposes. Lending the applications software is impermissible if the library acquired it under a license which did not permit loans.

d. A library purchases a book with supplemental software on a disk in the book pocket. The library lends the book with the accompanying software in response to an interlibrary loan request.

This is permissible under Section 109(b)(2), provided that the book and software is lent for a nonprofit purpose, and the library affixes to the book or disk the required copyright warning.

3. Patron Use from Remote Servers

a. A library at a nonprofit educational institution obtains a single-machine license for a popular word processing program, but makes it available via a campus wide computer system that any number of students, faculty, and staff may access simultaneously from either on or off campus. The required copyright warning is displayed whenever an end-user signs onto the computer system.

The fair use defense and statutory exemptions are unavailable. The lending exemptions for nonprofit libraries and nonprofit educational institutions apply to lawfully made copies, but not to the unauthorized reproduction and public display that occurs with network distribution. The fair use defense also should not apply to this reproduction, despite its non-commercial purpose, because the entire computer program is reproduced, the computer program may be unpublished, and the serious commercial effect caused by lost license fees and pirated copies.

b. Assume the same facts as in (a), except that the library obtains a network version of the word processing program and a site license permitting simultaneous access for faculty, staff, and students.

There is no infringement by library or faculty, staff, or students.

c. A nonprofit library has installed a computer program on its network and made it available to patrons, pursuant to a license agreement, via on-site terminals. Despite warnings to the contrary, a patron copies the computer program onto a diskette for his personal use.

There is copyright infringement by the library patron, and neither the fair use defense nor a statutory exemption is available.

d. A student at a nonprofit educational institution licenses a computer program for her personal computer, and uploads the computer program to the school library's network, where it can be accessed and copied by several hundred students, faculty and staff without permission of the copyright owner.

There is copyright infringement by the student. Her unauthorized reproduction of the computer program is not covered by Section 109(b) exemptions for nonprofit library lending for nonprofit purposes or nonprofit educational institutional lending.

September 6, 1996

**Statement on Use of Copyrighted Computer Programs (Software)
in Libraries -- Scenarios drafted by:**

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**COLLEGE ART ASSOCIATION
AND THE
NATIONAL INITIATIVE FOR A NETWORKED CULTURAL HERITAGE**

**COPYRIGHT AND FAIR USE IN THE DIGITAL FUTURE
A SERIES OF TOWN MEETINGS FOR THE CULTURAL COMMUNITY, 1998-1999**

The College Art Association in association with the American Council of Learned Societies and NINCH organized a series of five "Fair Use Town Meetings" between February 1997 and February 1998. The meetings grew out of the CONFU meetings, addressing the growing awareness that, as Susan Ball later put it about art faculty members, there was "woeful, perhaps willful" ignorance on fair use and copyright issues in the community. The five town meetings took place at the annual conferences of the College Art Association (New York, 1997 and Toronto, 1998) and the American Association of Museums (Atlanta) and on the campuses of Indiana University-Purdue University at Indianapolis and Reed College (Portland, Oregon).

The series started by focusing on the proposed fair use guidelines in the context of fair use and current copyright law. As the series progressed the focus shifted to a broader consideration of the future of fair use in a digital environment. While the backdrop for the first meetings was clearly the Conference on Fair Use, later on in the series it would be the broader intellectual property legislative proposals in Congress.

In one report on the town meetings, six themes were noted: the Explication of Fair Use against the background of Copyright Law, and the CONFU Guidelines; Acceptance or Rejection of the Proposed CONFU Guidelines; The Nature of the Engagement between the Nonprofit and the Commercial Worlds and their Values; Personal Testimony: Fair Use in the Trenches; Licensing and New Economic Models; Overall Lawyerly Advice and the Long-Term View. See <http://www-ninch.cni.org/News/CurrentAnnounce/TownMeetingThemes.html>; for a more detailed report on the entire series of CAA/ACLS/NINCH town meetings, see <http://www-ninch.cni.org/News/CurrentAnnounce/TownMeeting-Report.html>.

The Town Meetings were conceived as a combination of the presentation of fact and the provision of a forum for discussion. The range of questions, spanning present reality and future possibilities included: what is copyright law, what is fair use, what are the proposed CONFU fair use guidelines, how do they apply to your situation, how does the digital environment change the equation, what do we do without CONFU guidelines, what do we require from new legislation, what are the guiding values of this community and, finally, what are new economic models for access to intellectual property in our digital future?

In this rapidly developing environment, our continuing needs are broadly the sixfold ones of:

- making the case that these issues are important for those producing and using cultural materials and will become increasingly critical as more distribution and use of cultural resources occurs online;
- explaining the basics of fair use and copyright law;
- explaining current intellectual property legislative proposals (or recently passed current legislation);
- explaining, considering and speculating on the impact of digital networking on the use and management of intellectual property;
- exploring new economic and social models for the distribution of and access to intellectual property;
- discussing specific cases, issues and problems.

We propose a new, expanded series of town meetings that will build on the experiences of the first series and continue and strengthen the format (i.e., an initial informational/educational component of experts addressing the audience, followed by sufficient time to respond to questions and examine issues and particular instances). Coordinated and reported by NINCH, and with continued support from CAA and the ACLS, this series would expand the number of sponsors and interests to include: the Association of Research Libraries, the Association of American University Professors, the Association of American University Presses, the American Association of Museums and the Association of Art Museum Directors.

These organizations have shared values in the creation and employment of knowledge for our social and cultural good. Most represent within themselves those primarily creating knowledge (artists, researchers, curators), those owning or distributing it (artists, researchers, publishers, museums, universities) and those using it (artists, researchers, teachers, curators).

The "principles" that we will maintain in the meetings include:

- that the maintenance of robust fair use practice is central to vigorous cultural and intellectual activity, both within and without the electronic environment, and that such practice needs to be protected--especially in an environment where knowledge and public domain material is increasingly perceived to be subject to privatization;

- that, as there are no easy answers in this arena, we advocate responsible creation of institutional best practices and principles in the use and management of intellectual property; and
- that we advocate a willingness to speculate and consider new social and economic models based on clear statements of values.

The objectives of this series include:

- the education of users of copyright material of their privileges and responsibilities so as to imbue participants with an understanding of the importance of responsible behavior and an understanding of the economics of copyright protection on campus and in the museum;
- the assurance of conformance with the current copyright law, fully applying fair use exceptions, within the university and the museum;
- the creation of policy and principles on the management and use of intellectual property by associations and institutions (universities and museums) and the ongoing review of those policies;
- the mobilization of grass roots response to proposed copyright legislation;
- the further enrichment of online copyright information and education sites -- such as at NINCH, other associations and at university and museum websites;
- the inspiration and seeding of similar meetings on campuses and at conferences, with lawyers present and with a particular emphasis on workshops and the investigation of particular cases.

We propose a series of six town meetings, held approximately every two months for the year beginning September 1998. Three of these will be on campuses; three at conferences. Although each site would be responsible for local arrangements, the program for the entire series and for each individual session will be developed and/or approved by a central committee comprising one representative of each of the nine organizations.

**AMERICAN SOCIETY OF JOURNALIST AND AUTHORS,
AND
ASSOCIATION OF AMERICAN PUBLISHERS**

QUIZ ON COPYRIGHT

1. Which of the following can be copyrighted?

- a. A song
- b. A title
- c. A privately published book
- d. An idea
- f. Facts
- g. A cartoon
- h. A pornographic movie
- i. A published article
- j. An unpublished article
- k. Unpublished letters from a private citizen to a private citizen
- l. Unpublished letters from a private citizen to the federal government
- m. A photograph
- n. An alphabetical list of all a city's telephone numbers.
- o. A method for getting rid of gophers
- p. An invention
- q. An e-mail message that does not bear a copyright notice
- r. Computer software
- s. A federal publication
- t. A state publication
- u. A talk about copyright basics
- v. A handout by an independent contractor at a government-sponsored workshop
- w. An electronic database
- x. An audiovisual work

2. Which of the following does the copyright owner have exclusive rights to exploit?

- a. Reproduction
- b. Distribution
- c. Adaptation
- d. Performance
- e. Display
- f. Transmission

3. Which of the following works are probably in the public domain?

- a. Pygmalion, the 1913 play by George Bernard Shaw
- b. My Fair Lady, the Lerner & Loew musical based on Shaw's play
- c. An out-of-print history book published in 1964
- d. A poem by the later Robert Frost
- e. A photograph of an 18th Century work of art
- f. An unusual new arrangement of a 19th Century opera
- g. The CIA World Factbook
- h. A novel published by a firm that went out of business 20 years ago
- i. An e-mail message so widely circulated that almost everyone you know has received it
- j. A booklet that contains no copyright notice
- k. The entire contents of a U.S. government publication that includes, among other things, the poem President Clinton commissioned Maya Angelou to write for his inauguration in 1993
- l. Maya Angelou's poem from President Clinton's 1993 Inauguration

4. The term of copyright generally lasts for:

- a. 28 years
- b. 56 years (28 years plus 28-year renewal)
- c. life of author plus 50 years
- d. life of author plus 70 years
- e. all of the above
- f. it depends

5. Which of the following represents "fair use"?

- a. Quoting five lines from a long poem without permission
- b. Reprinting seven poems with permission
- c. Quoting brief passages from a novel in a review
- d. Quoting from a forthcoming book in a newspaper story
- e. Using a Peanuts cartoon to illustrate a point in a photocopied newsletter with a circulation of only 25 people
- f. Making copies of pages from a "consumable" workbook for use in a training course
- g. Putting together a customized anthology ("coursepack") of photocopied articles and book chapters for 25 students in a training course without clearing permission
- h. Videotaping a PBS special and (without clearing permission):
 - playing it in your home the next night
 - playing part of it during a training program the next week
 - playing part of it annually in the same training course
- i. Writing and performing a parody of a popular song without permission and over the objections of the original songwriter
- j. Texaco photocopying multiple copies of an article from a scientific journal to which it subscribes, for distribution to its research scientists

6. You want to use copyrighted material and need to clear permission. Where should you look and whom should you contact to find out who owns the copyright for the following:

- a. A selection from a book that is currently in print
- b. A selection from an out-of-print book
- c. An article in the Washington Post written by a freelancer (which you know because it says "Special to The Washington Post")
- d. Part of a song written by Willie Nelson, as sung by Kris Kristofferson, to be used in a multimedia production
- e. A cartoon by Charles Schulz published in The Washington Post
- f. A photograph in a book
- g. A prize photograph widely circulated in mass-market publication two years ago

Possible Answers:

1. The book publisher
2. The author
3. The Copyright Clearance Center
4. The Authors Registry
5. The Washington Post
6. American Society of Composers, Authors, and Publishers (ASCAP)
7. Broadcast Music, Inc.
8. The song publisher
9. A syndicate
10. One of several picture-research resources
11. The Library of Congress

AMERICAN ASSOCIATION OF MUSEUMS

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Due to the rapid advancement in the areas of digitization and technology, AAM has been working on a variety of intellectual property projects in order to keep the museum community at the forefront of this ever changing field. The following are the projects that AAM is currently working on:

Museums and Intellectual Property: A Primer for the Field

The AAM is working with the Getty Information Institute (GII) to develop a primer for American museums on the issues surrounding intellectual property law. AAM staff members, Patricia E. Williams, Vice President for Policy and Programs, Jerold D Kappel, Director of Development, and Barry G. Szczesny, Government Affairs Counsel will work in conjunction with GII staff, Jane Sledge, Project Manager and Christine Steiner, J. Paul Getty Trust's Secretary and General Counsel. A Pew Charitable Trusts grant was awarded to develop this primer. The Association and the GII have agreed to a timeline and have determined how resources will be allocated from the grant to GII. Completion of the primer is scheduled for July 1999.

The primer will examine the legal and ethical issues surrounding museums' management, ownership, creation, and use of intellectual property, particularly copyright and trademark. The primer will be developed using real life questions and examples drawn from the museum field. Legal experts and museum professionals will comment on and inform the discussion, highlighting best practices and ethical concerns.

The objective is to have a "user-friendly" primer on the critical issue of intellectual property and to provide a complimentary copy (required by the terms of the grant) to every museum identified in the Official Museum Directory and the Institute of Museum and Library Services database (approximately 8,200 institutions.) In addition to the basic material, there will be an expanded bibliography and resource section for further research into specific questions a museum may encounter in this area.

Because of the many potential users of this information, and the need to bring it to the attention of as wide a museum audience as possible, the primer will also be electronically published on the Web. Both the American Association of Museums and the Getty Information Institute have the option to place the primer on their Websites. A variety of other related cultural organizations would be encouraged to develop links to the Web version of the primer.

National Initiative for a Networked Cultural Heritage (NINCH)

The association continues as a member of this important coalition of educational, humanities, library and museum organizations that was founded to promote the inclusion of the arts and humanities in the development of the nation's information infrastructure. AAM is serving on the Core Values, Fair Use, and Advocacy committees of NINCH and has contributed significantly to the development of the coalition particularly by insuring that there is a balance in the positions that NINCH supports that recognizes not only the interests of users of intellectual property, but the rights of owners as well.

NINCH is coordinating the next series of 1998-1999 Copyright Town Meetings, designed to increase awareness about current intellectual property issues, particularly copyright. The meetings expanded group of sponsors includes: the American Council of Learned Societies, College Art Association, the Association of Research Libraries, the American Association of University Presses, the American Association of Museums, and the Association of Art Museum Directors. A proposal is currently being drafted.

American Strategy

Starting in January 1997 AAM began to cooperate with the GII and the Institute of Museum and Library Services (IMLS) to develop an initiative within the Federal government to encourage greater cooperation and sharing of the nation's cultural heritage information among federal agencies and ultimately with the public.

AAM's role has been to represent the interests of the private sector in cultural heritage initiatives that use technology as a form of both preservation and presentation that will ultimately increase access to collections and the information associated with those collections. An outcome of American Strategy will be new opportunities that will allow non-federal museum collections to link to and program with the national collections.

Museum Digital Licensing Collective (MDLC)

In January 1998, the AAM Board voted to approve a formal relationship between the MDLC and AAM whereby the association appoints the majority of the directors to the MDLC board. The first meeting of the MDLC board was held on March 19, 1998. AAM is officially sponsoring MDLC.

On June 5th and 6th MDLC held its initial meeting of the twenty museums that will serve on its advisory board. Fundraising will be the principal focus of the collective over the next 6-12 months. The MDLC board elected Douglas Greenberg, President and Director, Chicago Historical Society, to the chairmanship, additional officers will be selected in the next few months. The board felt that it was very important to move forward with the chair selection so that he could provide assistance in fundraising.

The MDLC Technical Advisory group also held its first organizing meeting on June 5th and 6th. The group laid out a work program for themselves through the end of the calendar year. They divided into two sub-groups one working on the technical issues and standards that will be used in the digitizing process and the other working on legal and policy issues for participating museums. A complete report from both of these groups will be available on the MDLC Website (musuemlicensing.org) as work moves forward.

Copyright Advisory Committee

AAM Government Affairs and AAM Vice-President of Policy and Programs have worked to navigate complex legislation on digital copyright chiefly by forming and seeking the advice of an ad hoc copyright committee. The group, composed of museum general counsels and information technology experts, was convened at AAM in February 1998 and has been kept informed of subsequent legislative developments by AAM Government Affairs staff via an e-mail list. The members of the committee are:

Rachel M. Allen, Chief, Research and Scholars Center, National Museum of American Art; Nancy Adelson, Temporary Assistant General Counsel, The Museum of Modern Art; Ildiko P. DeAngelis, Assistant General Counsel, Smithsonian Institution; Lauryn G. Grant, Assistant General Counsel, Smithsonian Institution; Douglas Greenberg, Ph.D., President and Director, Chicago Historical Society; Claire L. Muldoon, Program Manager, Office to the Counselor to the Secretary, Smithsonian Institution; Janice Sorkow, Director of Rights and Licensing, Museum of Fine Arts, Boston; Christine Steiner, Secretary and General Counsel, The J. Paul Getty Trust; Stephen E. Weil, Emeritus Senior Scholar, Center for Museum Studies, Smithsonian Institution; and Diane Zorich, Museum Information Management Consultant, Carlsbad, California.

The members of the committee guided AAM's response to legislative developments on Capitol Hill and helped develop a position statement which was shared with AAM's colleagues in the library, educational, and scholarly communities. AAM continues to work with this group to address the challenges museums face with evolving copyright law and policy.

CENTER FOR THE RESPONSIBLE USE OF INFORMATION TECHNOLOGIES OF THE UNIVERSITY OF OREGON COLLEGE OF EDUCATION CENTER FOR ADVANCED TECHNOLOGY IN EDUCATION

The Center for the Responsible Use of Information Technologies is a research and outreach program under development by the Center for Advanced Technology in Education of the University of Oregon College of Education. The Center will engage in research and outreach related to the responsible, legal, and ethical use of the Internet and other information technologies. The initial principal focus of the Center will be on the use of technologies by young people, in schools and at home. In the future the Center may also address use of technology in higher education and the workplace.

The mission of the Center is to develop and disseminate effective environmental, instructional, and intervention strategies to assist young people in gaining knowledge, effective decision-making skills, motivation, and control to behave responsibly, legally, and ethically in the use of the Internet and other information technologies.

- Environmental strategies will include school-based policies and implementation practices and complimentary family-based practices.
- Instructional strategies will include specific instructional programs, as well as just-in-time instructional strategies that teachers can use when Internet ethics issues emerge in the context of other learning activities or are reported in the media.
- Intervention strategies will address how the school and family can respond when a young person has transgressed to effectively use the resulting disciplinary consequence as an "teachable moment".

Responsible Use of Information Technologies Issues

The responsible use issues to be addressed by the Center will include the following:

- **Respect for Property and Territory**
System security issues and hacking.
Intellectual property rights.
- **Respect for Others and Common Courtesy**
Irresponsible speech, including defamation, harassment, flaming/abusive language, and spamming.
- **Respect for Institution**
Use of a limited purpose Internet account in accord with its limited purpose (educational institutions and business or government employers).
- **Respect for Privacy**
Dissemination and/or gathering of private information.
- **Respect for Self**
Personal safety.
Addiction.
Accessing material considered inappropriate for minors.

Research and Outreach Activities

The principal activities of the Center for the Responsible Use of Information Technologies will be:

Research Activities	Outreach Activities
<p><u>Basic Research</u></p> <p>To identify significant factors related to the development of the motivation and control to engage in responsible and ethical use of new technologies.</p> <p><u>Applied Research and Development</u></p> <p>To investigate the effectiveness of environmental, instructional, and intervention strategies that foster the responsible and ethical use of technology.</p> <ul style="list-style-type: none"> • Environmental -- Policies and practices, filtering systems, monitoring systems, etc. • Instructional -- Instructional programs and "just-in-time" instructional strategies. • Intervention -- Disciplinary strategies 	<p><u>Web Information Site</u></p> <p>To provide information resources for educators, parents, and others.</p> <ul style="list-style-type: none"> • Informational materials, including legal analysis, policies, research reports, template for the creation of a school-based Responsible Use Plan, and responsible use curriculum objectives. • Effective Strategies database -- environmental, instructional, and intervention strategies developed by the Center and submitted by others. • Resource library with links to other sites containing relevant information. <p><u>E-mail Distribution List</u></p> <p>To facilitate exchange of information between educators, parents, and others related to responsible use issues.</p> <p><u>Online Class</u></p> <p>Legal and Ethical Issues in Educational Technology -- a graduate level course offered through the UO College of Education, Department of Educational Leadership, Technology, and Administration.</p> <p><u>Presentations and Consultation</u></p> <p>Center staff will be available for presentations and consultations related to responsible and ethical use of new technologies.</p>

Center for the Responsible Use of Information Technologies

Director

The Director of the Center for Responsible Technology Use, Dr. Nancy Willard, has become a recognized authority on issues related to responsible technology use. Her background includes:

- Masters of Science in Special Education and experience as a special education teacher of students presenting behavior problems
- A Doctor of Jurisprudence and 7 years of practice in the area of computer law and copyright.
- Over 7 years of experience in providing consulting services to school districts in the development and implementation of technology plans.

Dr. Willard's research of issues related to K-12 Internet use policies, *A Legal and Educational Analysis of K-12 Acceptable Use Policies*, has been made available through the Web and is a recognized resource for districts throughout the country. Dr. Willard's book, *The Cyberethics Reader*, published by McGraw Hill, is a simple guide to Internet ethics and citizenship issues and is being used in colleges and universities across the country. Dr. Willard was recently invited to join the research staff of Center for Advanced Technology in Education (CATE) in the College of Education at the University of Oregon to expand research, development, and educational outreach in information technologies ethics and responsible use.

Center for Advanced Technology in Education

The Center for Advanced Technology in Education (CATE) is a formally constituted research and outreach center, approved by the Oregon State System of Higher Education in 1983. CATE is dedicated to investigating and promoting effective use of technology in education, with particular attention to applications appropriate for K-12 education. CATE serves as an administrative unit in the University of Oregon (UO), College of Education and an umbrella organization for a large number of affiliate organizations, both on and off campus. CATE has ongoing relationships with public and private schools throughout Oregon, bringing to the study years of classroom-based research in the uses of technology for teaching and learning. CATE has received several multi-year grants through the U.S. Department of Education and has an excellent track record in conducting major research efforts. Dr. Lynne Anderson-Inman, is the Director of CATE.



THE ART MUSEUM IMAGE CONSORTIUM

Art Museum Image Consortium
www.amico.net

*On-line access to multimedia
museum documentation
for education*

Founding Members

Albright-Knox Art Gallery
Art Gallery of Ontario
Art Institute of Chicago
Asia Society Galleries
Center for Creative Photography
Cleveland Museum of Art
Davis Museum and Cultural Center,
Wellesley College
Fine Arts Museums of San Francisco
International Museum of Photography,
George Eastman House
J. Paul Getty Museum
Los Angeles County Museum of Art
The Metropolitan Museum of Art
Minneapolis Institute of Arts
Montreal Museum of Fine Arts
Musée d'art contemporain de Montréal
Museum of Contemporary Art,
San Diego
Museum of Fine Arts, Boston
National Gallery of Canada
National Museum of American Art
Philadelphia Museum of Art
San Francisco Museum of Modern Art
San Jose Museum of Art
Walker Art Center

Managed by
David Bearman
Jennifer Trant
Archives & Museum Informatics
5501 Walnut St., # 203
Pittsburgh, Pennsylvania
USA 15232

Phone: +1 412 683 9775
Fax: +1 412 683 7366
Email: info@archimuse.com
www.archimuse.com

In 1997, 23 museums came together under the auspices of the Association of Art Museum Directors Educational Foundation to create and distribute a digital library of museum multimedia documentation for educational use. A planning process, funded by the members themselves, resulted in the creation of a not-for-profit, whose membership is open to institutions worldwide with collections of art. Participation in AMICO is seen by its members as part of their educational mission. They believe in providing access to information, and are adopting network distribution as a means of serving their diverse educational constituents in Universities, Colleges, Kindergarten through Grade 12 Schools, and Public Libraries as well as in other Museums and Art Galleries.

AMICO members believe in Fair Use as a means of assuring scholarly and educational access to information. However, they also realize that there are many uses with educational purposes that may not be considered Fair Use. AMICO will offer licenses for the non-commercial, educational use of the Library that have been developed in consultation with academic and educational users, and that enable a broad range of educational activities. The University license draws on the work of the Museum Educational Site Licensing Project (MESL).¹ Projects are now in the design phase to develop K-12 and Public Library licenses. Texts can be found at <http://www.amico.net>.

AMICO members also realize that they have many works in their collections that are currently under copyright. Licensing offers a means of distributing such information, and AMICO members are working with the rights holders themselves to allow educational use of works in their collections. We have begun discussions with artists rights societies, and look forward to streamlined processes and procedures that remove some of the administrative burden of educational licensing.

In the spring 1998, a "testbed" library of digital multimedia documenting approximately 20,000 works of art was created (comprising over 60,000 records and files, and 65GB of data). The Research Libraries Group, a not-for-profit providing networked information to the academic community, will distribute this beta AMICO Library to a limited number of universities beginning September 1998. University Testbed participants include over 20 campuses in the US, Canada and abroad.

AMICO is governed by a Board of Directors, comprised of the directors of its member institutions. Its Chairman is Harry S. Parker III, Director of the Fine Arts Museum of San Francisco. The body of its work is directed by three membership committees, on Users, Technical Operations, and Rights. To date, all AMICO activities have been funded by its members themselves. Full details about AMICO, including the licenses offered to Universities and Museum Members, can be found at <http://www.amico.net>, or by contacting Archives & Museum Informatics, Management Consultants to AMICO.

¹ Maxwell Anderson, Founding Chairman, David Bearman, Management Consultant to AMICO, and Jennifer Trant, Management Consultant to AMICO, all served on the MESL Management Committee. Trant was the first MESL Project Director. MESL was launched by the Getty Information Institute in conjunction with MUSE Educational Media and ran from 1996-1998.

AMICO University Testbed Project 1998/1999 Academic Year

The AMICO University Testbed Project is investigating a joint research agenda, to further our understanding of the use of museum multimedia documentation in higher education.

Project Goals

- Evaluate which content characteristics of the AMICO Library are of most value to the university community. What represents quality and to whom in this digital resource?
- Test mechanisms for delivery and integration of the AMICO Library into campus digital resources. Assess access tools, interchange formats and metadata to facilitate its use.
- Design strategies to increase the impact of the AMICO Library. How can AMICO, its members and the user community benefit from an on-going dialog?

Research Questions

- Identify who uses the AMICO Library and why
- Learn how the AMICO Library is accessed and used
- Increase understanding of user needs for teaching and research use of the AMICO Library and the systems needed to support them
- Determine how the AMICO Library can best be delivered
- Establish where and how purchasing decisions are made and how they can be supported
- Verify that the license terms proposed are acceptable to the user community
- Design means for user feedback and dialogue
- Understand user priorities for content development and design AMICO strategies to meet these needs

Participants

In addition to all 23 AMICO members, the following educational institutions are participating in the University Testbed Project:

Boston College, Chestnut Hill, MA, USA
California State Universities, CA, USA
 San Jose State, San Jose, CA
 Long Beach, Long Beach, CA
Carnegie Mellon University, Pittsburgh, PA
Columbia University, New York, NY, USA
Harvard University, Cambridge, MA, USA
Herron School of Art, Indianapolis, IN, USA and
Indiana University - Purdue University Indianapolis, IN, USA
Princeton University, Princeton, NJ, USA
Rochester Institute of Technology, Rochester, NY
University of Alberta, Edmonton, Alberta, Canada
University of Illinois, USA
 University of Illinois at Urbana-Champaign, Urbana, IL
 University of Illinois at Chicago, Chicago, IL
University of Leiden, Leiden, The Netherlands
University of Texas, Austin, TX, USA

University of Toronto, Toronto, Ontario, Canada

University of Toronto at Mississauga, Mississauga, Ontario,

University of Toronto at Scarborough, Scarborough, Ontario

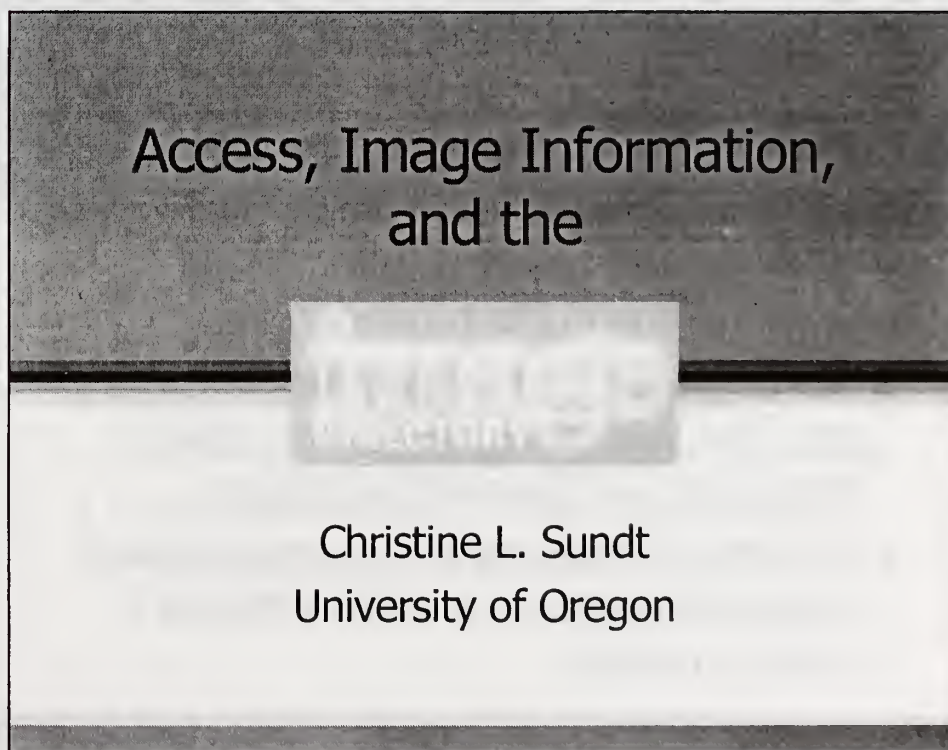
Washington University, St. Louis, MO, USA

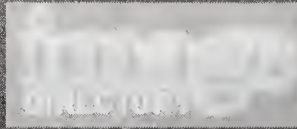
Wellesley College, Wellesley, MA, USA

Western Michigan University, Kalamazoo, MI, USA

Access to the AMICO Library during the University Testbed Project is being provided by the Research Libraries Group (RLG) Mountain View, CA, USA. RLG will offer access to universities under subscription beginning in the 1999/2000 academic year.

IMAGE DIRECTORY





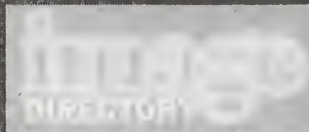
- The first online catalog of images and image information
- Published by Academic Press, a Division of Harcourt Brace & Company
- J. Scott Bentley, Senior Editor, project originator (jbentley@acad.com)
- Formally launched in October 1997, at <http://www.imagedir.com>



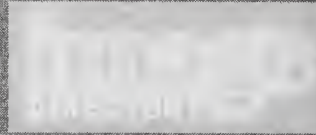
- Working with object owners, image vendors, and rights organizations
- Starting with the full spectrum of the arts, but will eventually launch other areas such as bio-medical images
- Offering an ever-expanding databank of image information as well as images when provided



- Amalgamates material from widely divergent sources into uniform, easily searchable records
- Strives to be accurate, authoritative, and up-to-date with information from worldwide sources
- Promotes the use of standard vocabularies and resources with AAT, ULAN, and others in the near future



- A union catalog of information about images and an electronic equivalent to Books in Print for images
- Record core consists of 46 datafields describing the underlying object in the image
- A text-based rather than an image-based project (an image is not required to be part of the databank)



- Expands access to image information
- Adds value to images and promotes a new revenue stream for object owners
- Documents ownership and rights criteria for each image
- Brings together widely dispersed information into one new service
- Is consistent with the mission of cultural institutions



- A project right for its time: technology at its best
 - Crystallizes social, cultural, and financial trends within an electronic publishing project
 - Has potential for growth and development in ways that are not yet clear
 - Is not fettered by arcane structures or limits imposed on print publications

Image information

- Object owners provide data in digital format or hard copy; data converted to digital at no expense to provider
- Data is mapped to template using concordances developed for MARC, CDWA, and VRA Core Data
- Providers have an opportunity to verify data before it is uploaded

Image information

- 104 signed worldwide data providers to date
- Data may be updated or augmented as needed; there are no limits on number of records
- Digital image files are purposely low-resolution, thumbnail quality (72 dpi)
- Watermarking or encryption may be used

Access

- Users may find several sources for the same image
- Users select the format and conditions for use that best suit their needs
- Licensing, purchase, and access to public domain images are among the options open to the user
- Fair use is preserved by the fact that users have choices and options in acquiring and using images

Access

- Image Directory is a locator service -- a directory -- existing as a reference tool for the benefit of the community
- Image Directory is not a broker of images -- seeking no rights to the data or images from the provider
- Image Directory is not an image bank or an online stock house

Access

- Recognizing two audiences:
 - university and research library community
 - anyone who uses images -- publishers, corporate art departments, television and film producers -- stock photo users
- Building on Academic's IDEAL program
 - electronic access to nearly 200 full-text retrievable journals

Access

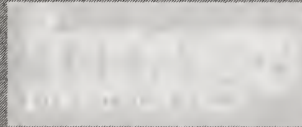
- ID Data records may be linked back to home site data records
- Additional information about the provider may be linked
- All queries and transactions go directly to the provider for handling

Access

- Usage Data
 - 3,668 users logged in and registered
 - 19,059 page hits
 - 14,776 searches
- Total records: 113,288; 21,400 image scans

Access

- Usage is available through site license or individual subscriptions
 - unlimited users controlled through IP addressing (consortium or individual institution) - \$1500/year
 - 10 users at one site with an additional amount for each user over 10 - \$300/year
 - one month, one user - \$40/month



- Tomorrow's technology may reshape the look and feel of today's version of the project
- Ongoing data augmentations make this a dynamic rather than a static resource
- New users and uses will be discovered
- Visit the site at:
<http://www.imagedir.com>



For more information, contact:
J. Scott Bentley, Academic Press,
525 B Street, Suite 1900, San
Diego, CA 92101-4495 USA
PHONE: 619-699-6387

EDUCATIONAL LICENSING PROGRAMS	
1. Name of the program	
2. Description of the program	
3. Objectives of the program	
4. Curriculum of the program	
5. Faculty of the program	
6. Facilities of the program	
7. Financial resources of the program	
8. Evaluation of the program	
9. Other information	

MUSEUM DIGITAL LICENSING COLLECTIVE

The Museum Digital Licensing Collective, Inc. ("MDLC") is a 501(c)3 Delaware non-profit, non-stock corporation formed to provide technical and financial assistance for digitizing museum collections. It will manage the storage, distribution, and licensing of digitized museum materials and related digital library software to educational institutions, libraries, commercial companies, and the public. MDLC will be organized and run in conjunction with museums to serve the entire American museum community.

MDLC has a unique affiliation with the American Association of Museums, which has appointed a majority of the MDLC's Board of Directors. The Board includes holders and users of museum collections -- museum, university, and library association officers -- to encourage wide acceptance of MDLC's educational and research missions. Computer services will be performed under contract with major academic research libraries. The lead contracts will be with the University of California at Berkeley and Cornell University. Sun Microsystems will be an initial technology provider for MDLC.

Most of the 8,200 American museums do not have the funding or technical resources to digitize and document large or important portions of their collections, develop appropriate database technology to coordinate the delivery of museum materials with relevant textual library data, or manage an Information Technology department. There are also varying standards for documenting and imaging museum collections. No central and efficient licensing administration of distributed databases exists today to manage the delivery of large amounts of digitized museum and library holdings to America's higher educational institutions, libraries, and K-12 school systems. Without such delivery mechanisms and protocols, users currently rely on web islands of often non-standard data formats and unsystematic collections that inhibit efficient research and solid educational applications.

MDLC will address these issues by helping to fund the necessary technical services to encourage acceptance of data standards, and handle all aspects of safely storing, distributing and licensing digitized museum materials. While MDLC will distribute all types of digitized museum collections, it will also help finance through grants and donated funds the digitizing of significantly rich and contextually-related museum holdings that will encourage researchers and students to explore the new possibilities of digital media. Bundled collections will be site licensed at educational institutions to build a stream of income. This revenue will help fund continuing digitization and digital library software development. A mutually-beneficial relationship will be negotiated between a very large set of potential users -- educational institutions seeking access to digitized content -- and museums with their vast repositories of cultural, artistic, historical, and scientific collections, but limited financial and technical resources.

The first-year Organizing Phase will engage 20 diverse museums and will: develop and negotiate MDLC's structure and operating policies; define procedures to digitize and document museum collections; test digital library, network and software systems to store, distribute, and

display digitized museum materials; coordinate access with digital text libraries; and advance relations with museums, educational institutions, and associations. Task Forces of museum professionals, computer specialists, educational representatives, and consultants will research, review and recommend options.

The Organizing Phase will also: refine MDLC's charitable and educational mission; produce a detailed business plan of on-going costs, needs, revenue projections, and timetables; develop appropriate operating plans, income and expense formulae, and licensing agreements; design and test relevant digital library technologies; implement computer services contracts with providers; negotiate rules of governance; and enlist museum members. Future plans for MDLC include the possible creation of subsidiary organizations to help museums manage the commercial uses of their digital assets. For example, a subsidiary might handle the licensing of digitized museum materials to publishers and product manufacturers; another subsidiary might propose and develop multimedia productions.

The initial meeting of twenty organizing museum participants and advisors will take place June 5-6, 1998. The budget for financing the digitization of core thematic collections, developing digital library software, distributing non-MDLC funded digital museum collections, and operating MDLC over the next five years is estimated at \$10 million.

Organizing Museum Participants

The following museums and original materials collecting institutions, selected for diversity in size and type, have agreed to help organize the Museum Digital Licensing Collective. They will work to develop MDLC, but are under no obligation to join it. Formal invitations to museums to join as members will be issued only after MDLC's policies and rules have been set by the organizing participants.

Amon Carter Museum
Carnegie Museums of Pittsburgh
Cornell University
Henry Ford Museum & Greenfield Village
Museum of Science and Industry
The National Museum of American History
The Children's Museum of Indianapolis
The Heard Museum
The Historical Society of Washington, D. C.
University of California at Berkeley

Arthur M. Sackler Gallery and Freer Gallery of Art
Chicago Historical Society
Harvard University Art Museums
Library of Congress
Peabody Museum of Archaeology and Ethnology
North Carolina Museum of Art
The Frederick R. Weisman Art Museum
The Historic New Orleans Collection
The New York Public Library
Worcester Art Museum

The founding MDLC Board Members:

Edward H. Able, Jr.
President & CEO
American Association of Museums
Washington, DC

Barbara Franco
Executive Director
The Historical Society of Washington D. C.
Washington, DC

Douglas Greenberg
President & Director
Chicago Historical Society
Chicago, Illinois

Lyndel King
Director
Frederick R. Weisman Art Museum
Minneapolis, Minnesota

Gerald R. Singer
General Counsel
American Museum of Natural History
New York, New York

Susan Rosenblatt
Deputy University Librarian
University of California at Berkeley
Berkeley, California

Sarah E. Thomas
Carl A. Kroch University Librarian
Cornell University
Ithaca, New York

Duane E. Webster
Executive Director
Association of Research Libraries
Washington, DC

Geoffrey Samuels
President, MDLC
New York, New York

Contact Information:

Geoffrey Samuels, President
Museum Digital Licensing Collective
1 East 53rd Street, New York, NY 10022
(212) 688-2408 - fax (212) 688-0409
www.museumlicensing.org

COPYRIGHT CLEARANCE CENTER

Throughout the CONFU process, the Copyright Clearance Center (CCC) has reported to this forum on CCC's efforts to develop, and implement, more efficient and effective collective licensing approaches for reproduction licensing in the university marketplace. CCC's current permissioning gateway in the United States manages \$12 million dollars annually in transactions, but lacks the comprehensiveness of licensing available to universities and rightsholders alike in much of Europe, as well as Canada, Australia, and New Zealand.

The initial reach of such a licensing program, addressing photocopying only, falls short of the digital focus of this Committee. Based on discussions with both rightsholders and universities, however, CCC has concluded that the need exists to negotiate broadly based licensing approaches for the photocopy arena first as a foundation for discussion of digital uses.

As the CONFU process comes to a close, CCC sees an increased readiness among all parties to move forward with more broadly based licensing solutions. Publishers such as John Wiley and Academic Press have begun to experiment with simpler mechanisms for licensing and permissions. Over 125 universities have established in-house copyright coordinators, reflecting their respect for the principle of copyright and their willingness to invest resources in this area.

In the next year, CCC's academic licensing initiatives will focus in three key areas:

- Copyright education on campus: a joint AAP/CCC initiative emphasizing education and licensing solutions will be reported on separately by Carol Risher, AAP Vice President for Copyright and New Technologies;
- New licensing initiatives to reflect new needs on campus:
 - Licensing for Electronic Reserves: In FY 98 CCC has offered licensing services to those E-reserve programs that have chosen to seek permission. Though no guidelines on electronic reserves emerged from CONFU, discussions about such guidelines identified a perceived, practical need among a number of universities, publishers, and authors for a service in this area. CCC has responded.
 - Licensing for Distance Learning: In the coming year, CCC will expand the service described above to include requests related to appropriate distance learning activities. Initial requests are already being processed for key organizations such as the Western Governor's new Virtual University that are building models for distance learning.
- Focus on specific tactics for streamlining and simplifying CCC's existing academic licensing programs.

- Continue to increase the repertory of works available for instantaneous online permissioning via CCC Online. (In FY 98, over 40% of our Academic Licensing Service requests were processed via the Web.)
- Initiate repertory licensing for certain interested classes of rightsholders and similarly interested institutions; by focusing licensing efforts on specific classes of rightsholders and specific institutions willing to work in the development of the model, CCC expects to build, evaluate, and refine the infrastructure and business models as a foundation for more comprehensive licensing approaches in the long term.

SOFTWARE LICENSING

Current Educational Software Licensing Practices



Several years ago, SPA reported that educational software companies had been tailoring their software licenses to the needs of educators. Today, this trend continues unabated, and has expanded into the Internet. Technology and the marketplace have given rise to a variety of license models for educators, regardless of whether they need software for stand-alone computer in classrooms, small computer labs, local area network such as school buildings or college campuses, and even wide area networks serving educational consortia. Software licenses can be placed in two broad categories: licenses for stand-alone computers, and licenses for computers in network environments, some examples of which are discussed below:

Software
Publishers
Association

Complimentary Evaluation and Educational Discounts. To help educators make informed choices about the best software for their needs, software companies often provide fully functional, complimentary copies of computer software to instructors for evaluation. To bring the cost of application software – such as desktop publishing and graphic design programs – within the reach of instructors and students, most software companies provide fully functional educational versions of their software at a fraction of the commercial price, with the proviso that the software be used for educational – not commercial – purposes.

Individual Use Licenses. Under this type of agreement, a specific individual, such as a teacher or librarian, licenses the software for use. For example, if a school district licenses a copy of a geometry program for the high school geometry teacher, that teacher can use the program in any location. Although some such licenses do not permit simultaneous use of the program on more than one computer, many publishers now specifically permit licensed users to copy the program on their computers at home. Software companies also offer schools and libraries “lab pack” and “classroom pack” licenses, which permit a single copy of software to be copied onto a number of computers at a reduced price.

Concurrent Use Licenses. On local area networks, a concurrent license does not tie the use of the software to any particular computer or user, but rather permits it to be used simultaneously on any computer in a local area network up to the maximum number of licensed users, which varies depending on the needs of the institution. This flexibility would be useful, for example, in managing a computer lab of 20 personal computers serving only 15 third-grade students using a math instruction program at any one time. To take advantage of concurrent licensing, institutions must have some sort of metering capability or license server to control the access to the concurrent license pool.

Site Licensing. On larger computer networks, site licenses represent a common and cost-effective means of delivering commonly used computer programs. Some site licenses, particularly those for multimedia reference works, are in the form of annual subscriptions, in which users in an entire school building or complex of buildings are allowed unlimited use and printing. Others types of site licenses, such as those for application software (which requires the software to be installed on each computer) are in the form of volume discount agreements, in which the institution pays for a specific number of licenses, which can be adjusted depending on need.

Consortium Licensing. Consortium licenses permit groups of participating institutions, such as K-12 schools, colleges and universities, or public libraries, that share similar needs to enter into a single site license agreement with the software company. The principal motivation for consortium licensing is price (the institution pays less per user for large user groups) and efficiency (one contract and technical liaison representing multiple sites.)

Multi-Market Consortium Licensing. Still larger consortia, such as state departments of education, uses multi-market consortium licensing to deliver software to a combination of libraries, schools, colleges, universities, both public and private. For example, the State of Florida Department of Education has licensed some software for all public libraries, state universities, community colleges, and many of the K-12 schools in Florida.

Determining the best license for an institution will depend on several factors, including the educational purpose, the size of the institution, the availability of trained technical and administrative support, and funding. In general, the incremental cost to license software for each user declines as the number of licensed users increases, but large-scale licensing often requires some MIS support.

More information on educational software and copyright can be obtained from the SPA Internet site at <http://www.spa.org>, or by calling Mark Traphagen at Ext. 322.

VOLUME THREE**A. ANNOTATED SELECTED BIBLIOGRAPHY****BIBLIOGRAPHY ON COPYRIGHT EDUCATIONAL AND LIBRARY
FAIR USE ISSUES**

This bibliography includes the publications, articles, brochures, websites and listservs related to copyright educational and library fair use issues which were included by CONFU participants with the organizational descriptions they submitted for the CONFU Final Report. It also includes selected additional sources of information and other recently published materials that provide information and a variety of perspectives on these issues. This list of works is not intended to be exhaustive nor does the U.S. Copyright Office necessarily endorse the works listed. The website addresses cited were all correct and active as of October 30, 1998.

Mary Levering

Associate Register for National Copyright Programs

U.S. Copyright Office

October 30, 1998

Bibliography:

Albrecht, Kathe Hicks. *Educational Use of Networked Museum Information: An Academic Viewpoint*. Spectra, Vol. 25, No. 2, Winter 1997. pp. 33-39.

[Published by the Museum Computer Network (MCN) in its quarterly publication, this article is based on a speech by Albrecht, the Visual Resources Curator at American University, at MCN's 1997 Conference in St. Louis.]

American Association of Law Libraries. *Guidelines on the Fair Use of Copyrighted Works by Law Libraries*, AALL Spectrum. Vol. 2, No. 6, March 1998. p. 14+.

<http://www.aallnet.org/handbook/policy_fair.html>

[The AALL appointed its Electronic Fair Use Committee in 1994 to develop policies/guidelines relating to the fair use of electronic information resources in law libraries and by law librarians. These guidelines, developed by the librarian members of the committee, represent recommendations for "best practices" in all types of law libraries, were adopted by the AALL Executive Board in July 1997.]

American Chemical Society. *Are You Up to Date on Copyright Issues?* 1997. 4 pp.

<<http://pubs.acs.org/instruct/pamphlet.html>>

[The "Copyright Information Pamphlet" is available electronically from the American Chemical Society's Joint Board/Council Committee on Copyrights to provide a brief overview of copyright information in relation to ACS journals and magazines.]

American Society of Journalists and Authors. *E-Wrongs About E-Rights: Electronic Publishing, Fiction and Fact*. Information Sheet. Undated. 3 pp.

<<http://www.asja.org/ewrongs.htm>>

[An information sheet of "Most Repeated Cyberfables", together with responses, prepared by the ASJA Contracts Committee.]

Art Museum Image Consortium. *A Preliminary Report*, March 22, 1997.

<<http://www.amn.org/AMICO/AMICO9703.20.rpt.shtml>>

[AMICO is an alliance of art-collecting institutions around the world who have joined together to enable educational use of the digital multimedia documentation of their collections.]

Association of American Publishers. *AAP Position Paper on Scanning*. August 1994. 3 pp.

<<http://www.publishers.org/home/abouta/copy/scanning.htm>>

[This position paper by the Association of American Publishers summaries general copyright principles related to scanning and expresses recognition "that there are acceptable uses of scanning technology" and concerns "that many of the activities for which scanning is now being used are...infringements."

Association of American Publishers. *Contractual Licensing, Technological Measures, and Copyright Law*. 1997. 10 pp.

<<http://www.publishers.org/home/abouta/copy/licensing.htm>>

[This position paper by the Association of American Publishers responds to user concerns regarding the impact that new tools--contractual licensing, technological measures and the copyright law--may have on information availability and fair use.]

Association of American Publishers. *The Copyright Primer: A Survival Guide to the Copyrights and Permissions Process*. New York, Association of American Publishers, 1997. 91 pp.

<<http://www.publishers.org/home/abouta/copy/primer.htm>>

[A practical and theoretical reference manual for professionals working in publishing or related industries in the area of rights and permissions, developed by the AAP Rights and Permissions Advisory Committee.]

Association of American Publishers. *Statement of the AAP on Document Delivery*. April 13, 1994.

<<http://www.publishers.org/home/abouta/copy/statement.htm>>

[A policy statement by the Association of American Publishers on publishers' perspectives related to document delivery services provided by commercial services and technology-enhanced copying and distribution services of libraries.]

Association of American Publishers, National Association of College Stores, and Software Publishers Association. *Questions and Answers on Copyright for the Campus Community*. 1997. 20 pp.

<<http://www.nacs.org/info/copyright>>

[This booklet was co-sponsored by the Association of American Publishers, National Association of College Stores, and Software Publishers Association and endorsed by the Association of American University Presses (AAUP) and the Copyright Clearance Center (CCC), to clarify the issues and present information and procedures that will result in greater understanding of the rules governing use of copyrighted works and facilitate the permissions process.]

Association of Research Libraries. *Copyright and Fair Use in Digital Environments: Challenges For the Educational Community*. ARL Newsletter. No. 192, June 1997. 16 pp.

<<http://www.arl.org/newsltr/192/intro.html>>

[Special "copyright issue" of the newsletter, published by the Association of Research Libraries.]

Association of Research Libraries. *Copyright, Public Policy and the Scholarly Community*. Washington, DC: Association of Research Libraries. July 1995. 56 pp.

<<http://www.arl.org/scomm/cppsc/index.html>>

[Four perspectives by a panel of experts, (Jerry Campbell, Duke University Librarian; Catherine Rudder, American Political Science Association; Karen Hersey, Massachusetts Institute of Technology, and Kenneth Crews, Indiana University), on the strategies and public policy choices involved in defining the rights and responsibilities of copyright owners, users and libraries in the networked environment, presented at the May 1995 membership meeting of the Association of Research Libraries. These perspectives and a paper by Douglas Bennett of the American Council of Learned Societies were later published together by ARL.]

Association of Research Libraries. *Intellectual Property: An Association of Research Libraries Statement of Principles*. June 1994. 4 pp.

<<http://www.arl.org/scomm/copyright/principles.html>>

[A policy statement by Association of Research Libraries, affirming the rights and responsibilities of the research community in the area of copyright and stating seven intellectual property principles as they apply to librarians, teachers, researchers, and other information mediators and consumers.]

Association of Research Libraries. *Principles For Licensing Electronic Resources*.

July 15, 1997. 6 pp. <<http://www.arl.org/scomm/licensing/principles.html>>

[Six library associations, representing an international membership of libraries of all types and sizes, combined to develop a statement of principles to guide libraries in negotiating license agreements for access to electronic resources so as to create agreements that respect the rights and obligations of both parties.]

Baron, Robert A., editor. *Copyright and Fair Use, The Great Image Debate*, Visual Resources: An International Journal of Documentation. Vol. 12, Nos. 3-4, 1997. pp. 233-459.

[This "Special Issue" of the Visual Resources Journal, published by Gordon and Breach, is devoted to the wide range of issues surrounding the rights pursuant to obtaining and using images--copyright and intellectual property rights, freedoms, obligations, restrictions, procedures, and exemptions. The articles address the laws controlling how images are provided and the rights and obligations image users and image owners expect to be respected.]

Baron, Robert A. *Digital Fever: A Scholar's Copyright Dilemma*. Museum Management and Curatorship. Vol. 15, No. 1, March 1996. pp. 49-64.

[The author of this paper, an art historian and informatics consultant who specializes in issues relating to fine arts collections, notes that it was adapted from discussions posted to the Internet Lists MUSEUM-L <museum-l@home.ease.lsoft.com> and CAAH (Consortium of Art and Architectural Historians) <caah@pucc.princeton.edu>.]

Bennett, Douglas. *Fair Use in Digital Environments: The Work of the Conference on Fair Use*.

<http://www.ninch.cni.org/ISSUES/COPYRIGHT/FAIR_USE_EDUCATION/DougEssay.html>

[A speech presented by Douglas Bennett, then vice president of the American Council of Learned Societies, at the National Federation of Abstracting and Information Services meeting in Philadelphia, PA on February 27, 1996.]

Bennett, Scott. *The Copyright Challenge: Strengthening the Public Interest in the Digital Age*. Library Journal, Vol. 119, No. 19, November 15, 1994. pp. 34-37.

[First presented by the author, the director of Yale University Library, at an EBSCO-sponsored seminar at the American Library Association meeting 1994, this article was then adapted for Computers in Libraries, May 1994, Vol. 14, No. 5, pp. 18-20 and reprinted in Library Journal.]

Besenjak, Cheryl. *Copyright Plain and Simple*. Franklin Lakes, NJ. Career Press, 1997. 192 pp.

[This handbook on copyright principles and procedures outlines the fundamental elements of copyright in plain and simple language and through practical examples as part of the "Plain and Simple" series, published by Career Press.]

Boyle, James. *Shamans, Software, and Spleens*. Cambridge, MA: Harvard University Press, 1996. 270 pp.

[Boyle examines diverse areas of the law that regulate the creation and use of information or intellectual property, asserting that the expansion of intellectual property rights and the consolidation of those rights in the hands of "large companies" hinders the growth of creativity and the creation of new works.]

Brennan, Patricia, editor. *Copyright and the NII: Resources for the Library and Education Community*. Washington, DC: Association of Research Libraries. May 1996. 150 pp.

<<http://www.arl.org/pubscat/pubs/booklet.html>>

[A resource packet, commissioned by the ARL Working Group on Copyright Issues, assists librarians and educators in educating their colleagues, campus administrators, legislators and others on efforts to update the U.S. copyright law for the digital age.]

Brennan, Patricia, Karen Hersey and Georgia Harper. *Licensing Electronic Resources: Strategic and Practical Considerations for Signing Electronic Information Delivery Agreements*. Washington, DC, Association of Research Libraries, 1997. 9 pp.

<<http://www.arl.org/scomm/licensing/licbooklet.html>>

[This booklet presents a checklist of strategic and practical issues academic and research library contract teams should consider in negotiating licenses for electronic resources.]

Bruwelheide, Janis H. and Mary Hutchings Reed. *The Copyright Primer for Librarians and Educators*. Chicago, IL: American Library Association, and Washington, DC: National Education Association, 2d edition, 1995. 151 pp.

[Resource book for librarians and educators on fair use, copyright and photocopying for library and educational purposes]

Connolly, Frank. *Fair Use in an Educator's Multimedia World*. Liberal Education. Vol. 82, No. 4, Fall 1996. pp. 48-53.

[This article was adapted from a paper given at the American Association of Colleges and Universities' 82nd Annual Meeting in January 1996 by Frank W. Connolly of American University and Mary Levering of the U.S. Copyright Office.]

Consortium of College and University Media Centers. *A Copyright Code of Conduct for Members of the Consortium of College and University Media Centers*. April 1994.

<<http://www.indiana.edu/~ccumc/cccode.html>>

[The Consortium of College and University Media Centers has over 400 members, representing all sizes of institutions in higher education that provide media/instructional technology-related support services.]

Consortium of College and University Media Centers. *Fair Use Guidelines for Educational Multimedia: The Final Document and Its Implementation*. February 20, 1997, Videoconference.

<<http://www.indiana.edu/~ccumc/copyright.html>>

[A VHS videotape of the PBS/ALSS videoconference produced by CCUMC, covering content of the final fair use educational multimedia guidelines and implementation at the school and college level.]

Consortium of College and University Media Centers. *Multimedia Fair Use Guidelines: The Educational Gateway to the Information Age*. September 21, 1995, Videoconference.

<<http://www.indiana.edu/~ccumc/copyright.html>>

[A VHS videotape of the PBS/ALSS videoconference produced by CCUMC, presenting details of the 1995 draft of the multimedia fair use guidelines and employing a series of vignettes to help describe the issues around multimedia and fair use.]

Consortium for Educational Technology for University Systems. *Fair Use of Copyrighted Works: A Crucial Element in Educating America*. Seal Beach, CA: CSU Chancellor's Office, 1995. 34 pp. [California State University, State University of New York, City University of New York.]

<<http://www.cetus.org/fairindex.html>>

[A consortium of three major universities, the CSU-SUNY-CUNY Work Group on Ownership, Legal Rights of Use, and Fair Use, address copyright and fair use in the context of higher education. This resulting study calls for university action on copyright and university guidelines for intellectual property, and includes analyses of court decisions on fair use.]

Crews, Kenneth D. *Copyright, Fair Use, and the Challenge for Universities: Promoting the Progress of Higher Education*. Chicago, IL: The University of Chicago Press, 1993. 256 pp.

[An explanation of copyright and the ambiguous concept of fair use as they affect and are affected by higher education. The first large-scale study of its kind surveys the copyright policies of 98 American research universities; analysis reveals a variety of ways in which universities have responded to--and how they could better manage--the conflicting goals of copyright policies--avoiding infringements while promoting lawful uses that serve teaching and research. *Introduction*.]

Crews, Kenneth D. *Copyright Law and Graduate Research: New Media, New Rights, and Your New Dissertation*. Ann Arbor, MI: UMI Company, 1996. 29 pp.

<<http://www.umi.com/hp/Support/DExplorer/copyright/>>

[A manual that helps graduate students and advisors understand legal rights and duties, identify when writers need to seek copyright permissions, show how to obtain them, and help graduate students protect their own copyrights. This publication is a revision and update of the 1992 Crews manual, *Copyright Law and the Doctoral Dissertation: Guidelines to Your Legal Rights and Responsibilities*.]

Crews, Kenneth D. *Fair Use and Higher Education: Are Guidelines the Answer?* Academe: Bulletin of the American Association of University Professors. Vol. 83, November/December 1997. pp. 38-40.

<http://www.iupui.edu/it/copyinfo/Academe_1997.html>

[Crews, who participated at most CONFU meetings, argues that fair use guidelines lack the many legal and practical advantages of the fair use law itself, and that a return to the law, rather than reliance on guidelines, is a more reasonable avenue for educators to follow. He argues that acceptance of rigid guidelines is a rejection of the attributes of fair use that Congress intended to benefit teaching and learning.]

Crews, Kenneth D. *What Qualifies as "Fair Use"?* Chronicle of Higher Education, May 17, 1996, p. B1.

[Crews traces the development of CONFU guidelines, particularly for electronic reserves, notes the difficulty that scholars, librarians, and publishers have in reaching an acceptable definition of "fair use", and concludes that any resulting guidelines must be "workable and palatable".]

Dalziel, Chris. *Fair Use Guidelines for Educational Multimedia: Background and Summary*. 1996. 4 pp.

<<http://www.indiana.edu/~ccumc/dalziel.html>>

[This article, written by the executive director of the Instructional Telecommunications Council provides a summary of the agreements and some background for the multimedia guidelines.]

Demac, Donna A. *Is Any Use "Fair in a Digital World? Toward New Guidelines for Fair Use in the Educational Context*. New York, NY: The Freedom Forum Media Studies Center, 1996. 57 pp.

<<http://www.mediastudies.org/ctr/publications/demac/dd.html>>

[This report provides background information and research, based on original surveys, to understand dilemmas that are likely to arise in 3 areas--electronic news, digital music and electronic publishing.]

Failing, Patricia. *Scholars Face Hefty Fees and Elaborate Contracts When They Use Digital Images*. Chronicle of Higher Education, May 29, 1998, p. B1.

[This essay describes the difficulty of developing acceptable guidelines for the fair use of visual images in the context of CONFU, and examines how copyright policies, as well as contractual arrangements between cultural institutions and private archives of digital images affect the work of arts scholars and librarians.]

Fair Use Guidelines for Educational Multimedia. Nonlegislative Report of the Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, U.S. House of Representatives. September 27, 1996. 2 pp. with 10 pp. of attachments.

<<http://www.indiana.edu/~ccumc/mmfairuse.html>>

[Development of these fair use guidelines was coordinated by the Consortium of College and University Media Centers during the period 1994-96, together with numerous participating organizations in a parallel initiative to CONFU; these guidelines were completed in September 1996 and addressed by the U.S. Congress in this Nonlegislative Report.]

Gasaway, Laura N., editor. *Growing Pains: Adapting Copyright for Libraries, Education and Society.* Littleton, CO: Fred B. Rothman & Co., 1997. 558 pp.

[20 chapters written by a variety of scholars with expertise in the fields of copyright law, education, and librarianship who advocate changes in the copyright statute, in interpretations of the law, and in school and library practices so that librarians and educators can meet their obligations.]

Gasaway, Laura N. *When Works Pass Into the Public Domain.* December 3, 1996.

<<http://www.unc.edu/~uncldg/public-d.html>>~

[One-page chart outlines the duration of copyright for works covered by U.S. copyright law.]

Gasaway, Laura N. and Sarah K. Wiant. *Libraries and Copyright: A Guide to Copyright Law in the 1990s.* Washington, DC: Special Libraries Association, 1994. 271 pp.

[The authors cover the functions and uses of U.S. copyright law, geared primarily to librarians, students of library science and anyone engaged in the lending of and dissemination of copyrighted works. Both Gasaway and Wiant are directors of university law libraries and professors of law--Gasaway at the University of North Carolina and Wiant at Washington and Lee University.]

Getty Information Institute. *Introduction to Managing Digital Assets.* Edited by Diane Zorich. Los Angeles, CA: J. Paul Getty Trust, 1998. [In press.]

[A study of options for cultural and educational organizations in administering intellectual property in the electronic age in addition to the Museum Educational Site Licensing Project (MESL).]

Getty Information Institute. *Delivering Digital Images: Cultural Heritage Resources for Education*. Edited by Christine Stephenson and Patricia McClung. Los Angeles, CA: J. Paul Getty Trust, 1998. 196 pp.

<<http://www.getty.edu/publications/titles/deliv/index.html>>

[The pioneering two-year Museum Educational Site Licensing Project (MESL), initiated in 1995 and sponsored by the Getty Information Institute, brought together representative U.S. museums, colleges and universities to explore the legal, technical and practical issues involved for use of museums' digital images and information on campus-wide networks for educational purposes.]

Getty Information Institute. *Images Online: Perspectives on the Museum Education Site Licensing Project*. Edited by Christine Stephenson and Patricia McClung. Los Angeles, CA: J. Paul Getty Trust, 1998. 88 pp.

<<http://www.getty.edu/publications/titles/images/index.html>>

[An investigation of museum educational site licensing and collective management of rights, based on experience learned through the Museum Education Site Licensing Project (MESL).]

Ginsburg, Jane C. *Copyright Without Walls? Speculations on Literary Property in the Library of the Future*. Representations. Vol. 42, Spring 1993. pp. 53-73.

[In this essay published by the University of California Press, the noted copyright law expert at Columbia University School of Law examines the application and adaptation of copyright law to the library of the future, a "library without walls".]

Goldstein, Paul. *Copyright, Second Edition*. Boston, MA: Little, Brown. 1996. 4 volumes, Loose-leaf.

[Goldstein's treatise on copyright law is also available on CD-ROM from Aspen Law & Business.]

Goldstein, Paul. *Copyright's Highway: From Gutenberg to the Celestial Jukebox*. New York, NY: Hill and Wang, 1994. 261 pp.

[Copyright expert Paul Goldstein, Professor of Law at Stanford University, traces the 300-year old history of copyright, explains the concepts and rationale behind the idea of intellectual property rights, and highlights noteworthy legal battles, (including the famous Williams & Wilkins photocopying case). Booklist, December 1, 1994.]

Green, David. *ACLS-CAA-NINCH Fair Use Town Meetings: Themes in the Town Meetings*. National Initiative for a Networked Cultural Heritage. June 25, 1998.

<<http://www-ninch.cni.org/News/CurrentAnnounce/TownMeetingThemes2.html>>

[Green, executive director of NINCH, summarizes the themes identified in the five "town meetings" on copyright and fair use held from February 1997 through February 1998 which were co-sponsored by the College Art Association, the American Council of Learned Societies, and the National Initiative for a Networked Cultural Heritage, with funding support from the Samuel H. Kress Foundation.]

Green, David. *Fair Use Education: Copyright and Fair Use Town Meetings 1997-98 - Final Report*. National Initiative for a Networked Cultural Heritage. June 25, 1998.

<<http://www.ninch.cni.org/News/Curr...ounce/TownMeeting-FinalReport.html>>

[NINCH, one of the supporters of the five 1997-98 "town meetings" on copyright and fair use, summarizes the meetings in a final report for NINCH, a collaborative project begun in 1993 by the American Council of Learned Societies (ACLS), the Coalition for Networked Information (CNI) and the Getty Information Institute.]

Hall, Virginia M.G. *Fair Use or Foul Play?: The Digital Debate for Visual Resource Collections*. November 7, 1997. 6 pp.

<<http://www.oberlin.edu/%7Eart/vra/fairfoul.html>>

[Hall, Curator of Slide Collections at Johns Hopkins University, presented this paper on behalf of the Visual Resources Association, at the Association of College and Research Libraries, New England Chapter Conference, at Boston University on November 7, 1997.]

Hardy, I. Trotter. *Project Looking Forward: Sketching the Future of Copyright in a Networked World-Final Report*. Washington, DC: U.S. Copyright Office, May 1998. 304 pp.

<<http://lcweb.loc.gov/copyright/cpypub/thardy.pdf>>

[A report commissioned by the U.S. Copyright Office from I. Trotter Hardy, Professor of Law at the College of William and Mary, as part of the U.S. Copyright Office's continuing effort to examine the future of the Internet and related digital communication's technologies, and to identify the legal and policy issues that might arise as a result. Copies are available from the U.S. Government Printing Office - stock number 030-002-00191-8.]

Harper, Georgia. *Will We Need Fair Use in the Twenty-First Century?* March 4, 1997. 31 pp.

<http://www.utsystem.edu/ogc/intellectualproperty/fair_use.htm>

[Harper, a copyright lawyer in the Office of General Counsel of the University of Texas System, explores the meaning of fair use to "focus attention on those parts of its function that are most affected by the electronic environment; an examination of that effect; an evaluation of the supposed benefits of fair use and alternative ways to achieve those benefits given the impact of the electronic environment on fair use."]

International Publishers Association. *Copyright Forum on Publishers and Libraries--Charting the New Relationship*.

<<http://www.ipa-uie.org/>>

[Site includes papers from IPA's copyright forum at the October 1997 Frankfurt Book Fair, moderated by Carol Risher, Association of American Publishers, with papers presented by Clive Bradley, British Publishers Association; Ann Okerson, Yale University; and Hubert Tilliet, French Publishers Association (Syndicat National de l'Edition).]

International Publishers Association. *The Use of Digitized Copyright Works in Libraries*. November 26, 1996.

<<http://www.ipa-uic.org/>>

[A policy statement on behalf of electronic book and journal publishers by the IPA and the International Association of Scientific Technical and Medial Publishers (STM), represented by the International Publishers Copyright Council (IPCC).]

Jensen, Mary Brandt. *Does Your Project Have a Copyright Problem?: A Decision-Making Guide for Librarians*. Jefferson, NC: McFarland & Co., 1996. 259 pp.

[A practical handbook for librarians in applying copyright fair use principles.]

Kasunic, Robert. *Fair Use and the Educator's Right to Photocopy Copyrighted Material for Classroom Use*. Vol. 19, No. 3. The Journal of College and University Law. Winter 1993. pp. 271-293.

[This paper was awarded first prize in the 1991 Nathan Burkan Memorial Competition at the University of Baltimore School of Law, a competition sponsored by the American Society of Composers, Authors and Publishers.]

Lawrence, John Shelton and Bernard Timberg. *Fair Use and Free Inquiry: Copyright Law and the New Media*. Norwood, NJ: Ablex Publishing Corp., 1989. 408 pp.

[These studies and essays explore the practical difficulties of applying fair use and other copyright principles to common and diverse situations. In addition to general background studies, essays focus on numerous problem areas, ranging from the use of music lyrics and visual images in publications to the duplication and performance of works in libraries and classrooms.]

Leval, Pierre N. *Toward a Fair Use Standard*. Harvard Law Review. Vol. 103. March, 1990. pp. 1105-1136.

[As a judge of the U.S. Court of Appeals for the Second Circuit, the author has heard many copyright suits involving claims of fair use and suggests in this commentary that a cogent set of governing principles exists for applying the fair use doctrine that is soundly rooted in the objectives of the copyright law, including whether or not the challenged use is "transformative".]

Leval, Pierre N. *Campbell v Acuff-Rose: Justice Souter's Rescue of Fair Use*. Cardozo Arts & Entertainment Law Journal. Vol. 13, No. 1. 1994. pp. 19-26.

[The author predicates that "the fair use doctrine had been lost adrift for a turbulent decade and now, at last through Justice Souter's magnificent opinion had found its way...the doctrine got lost as a result of overreaction to the Supreme Court's opinion in Sony in 1984..." p. 19]

Levering, Mary. *What's Right About Fair Use Guidelines for the Academic Community?* In *JASIS Perspectives on...Fair Use, Education, and Libraries*. Journal of the American Society for Information Science. Vol. 50, 1999. [In press.]

[This article is based on a presentation, addressing the issue of "what's advisable about guidelines for academic institutions?", on the question "Are Fair Use Guidelines Right for the Academic Community?" as part of the 2nd Town Meeting on "Fair Use, Education and Libraries" on April 4, 1997 at the University of Indiana.]

Library of Congress. *Copyright, Fair Use and Responsible Use of American Memory Collections*.

<<http://memory.loc.gov/ammem/ndlpedu/copyright.html>>

[In this section on its website, the Library of Congress provides general information on copyright, fair use and questions related to classroom examples from teachers using American Memory collections, digitized by the Library of Congress which are available on the Library's website.]

Mann, Charles C. *Who Will Own Your Next Good Idea?* Atlantic Monthly, September 1998. pp. 57-82.

<<http://www.theatlantic.com/issues/98sep/copy.htm>>

[Atlantic Monthly contributing editor, Mann takes a fresh look at current debates over the growth of copyright in the digital age, explores the growing importance and wealth of the "copyright industries" and the arguments for either strengthening the law to protect those interests or relaxing the "property rights" in order to allow the proliferation of creative works and the dissemination of them through new technologies. Though recognizing the merit of legal protections, the author points out the awkward consequences and is critical of efforts to expand the scope and restrictiveness of the law.]

McNees, Pat. *Fair Use Come the Revolution*, Authors Guild Bulletin. Winter 1995, pp. 6-11.

[In this report, independent author and editor Pat McNees, representing the American Society of Journalists and Authors, draws on discussions at the CONFU plenary sessions, a report written jointly with Jill Wechsler, and a 1995 panel discussion sponsored by the Washington Book Publishers.]

McNees, Pat. *Fair Use and Foul: Copyright and Consulting*. Consulting Success: Newsletter of the Association of Professional Communication Consultants. No. 37, Spring 1998, pp. 1, 4-5.

Model Law Firm Copyright Policy, AALL Spectrum. Vol. 1, No. 4, December 1996, pp. 28-29.

<http://www.aallnet.org/committee/copyright/model_law.html>

[This "Model Law Firm Copyright Policy" was incorporated in the American Association of Law Librarians' Copyright Committee Report, dated October 10, 1996.]

National Association of College Stores. *A Shared Set of Values: Copyright and Intellectual Property in the Academic Community*. Videotape. May 19, 1997.

<<http://www.publishers.org/home/abouta/highered/video.htm>>

[12-minute videotape, sponsored by the National Association of College Stores, Association of American Publishers and Software Publishers Association, using authors, publishers, multimedia companies and students to illustrate that respect for copyright translates into respect for creative people.]

National Humanities Alliance. *Basic Principles for Managing Intellectual Property in the Digital Environment*. March 24, 1997.

<http://www.ninch.cni.org/ISSUES/COPYRIGHT/PRINCIPLES/NHA_Complete.html>

[A Statement of Basic Principles prepared by the Committee on Libraries and Intellectual Property, representing the 15 member associations of the National Humanities Alliance (NHA) "in an effort to build consensus within the educational community on the uses of copyrighted works in the digital environment."]

Nimmer, Melville B. and David Nimmer. *Nimmer on Copyrights*. New York, NY:

Matthew Bender & Co. 1998. 10 volumes, Loose-leaf.

[Nimmer's comprehensive treatise on copyright law is keep up-to-date in loose-leaf form.]

Novak, Carole, editor. *What's Fair?: A Report on the Proceedings of the National Conference on Educational Fair Access and the New Media, June 15-17, 1994*. Agency for Instructional Technology, TECHNOS Press, Bloomington, Indiana. 1994. 95 pp.

[A source of information and opinion from those engaged in the debate about new media and fair access for education, summarizing the proceedings of the conference which preceded the 1994-96 development of the fair use guidelines for educational multimedia.]

Oakley, Robert L. *From Free Public Libraries to Pay Per View: Copyright and Access to Information in the Digital Age*. Keynote Address, April 24, 1998.

<<http://www.ll.georgetown.edu/aallwash/copyedu.html>>

[Keynote address presented by the director of the Law Library and Professor of Law at Georgetown University Law Center at the First Library Affairs Symposium on Information Issues, at Southern Illinois University, Carbondale, IL on April 24, 1998.]

Patry, William F. *The Fair Use Privilege in Copyright Law*. Washington, DC: Bureau of National Affairs Books, 2nd edition, 1995. 675 pp.

[A complete legal reference book on fair use legislation, legislative reports, and analysis of judicial opinions, with sections on the origin and legislative history of fair use, analysis of fair use factors, fair use and the First Amendment, and procedural and international issues.]

Patterson, L. Ray. *Copyright in Historical Perspective*. Nashville, TN: Vanderbilt University Press, 1968. 264 pp.

[A study of the historical origins of American and English copyright law, that traces in detail the development of copyright law from a right granted to publishers to control the book trade and to limit dissemination of ideas that threaten the government, arguing that copyright has been reordered today into a device for protecting profits.]

Patterson, L. Ray and Stanley W. Lindberg. *The Nature of Copyright: A Law of Users' Rights*. Athens, GA: The University of Georgia Press, 1991. 274 pp.

[A critical look at contemporary understandings of copyright law in which the authors argue that copyright has been misunderstood to protect authors against unpermitted uses of their works, and assert that copyright's original purpose was to provide a public benefit and to allow broader uses of intellectual works for the advancement of the public good.]

Perspectives on ... Fair Use, Education, and Libraries: A Town Meeting to Examine the Conference on Fair Use. Lois Lunin, ed., Kenneth D. Crews and Dwayne K. Buttler, guest eds. *Journal of the American Society for Information Science*. Vol. 50, 1999. [In press.]

[This special issue of *JASIS Perspectives* contains several articles by presenters at the 2d town meeting on fair use, "Fair Use, Education and Libraries: a Town Meeting to Explore the Conference on Fair Use", hosted by the Indiana University Institute for the Study of Intellectual Property and Education and held at the campus of Indiana University-Purdue University in Indianapolis, Indiana, on April 4, 1997. See also David Green's *Town Meetings-Final Report*.]

Picture Agency Council of America. *Copyright Commandments from PACA*. 1 p.

<<http://www.indexstock.com/pages/pacacrl.htm>>

[The "Ten Copyright Commandments" relating to uses of images from the Picture Agency Council of America, a trade association for the stock photography industry.]

Recording Industry Association of America. *Sound Byting: A Campaign to Protect Music on the Internet*. Information Packet/Kit with Faculty Guide and Student Handouts. 1998.

<<http://www.soundbyting.com>>

[The Sound Byting campaign is an initiative by the Recording Industry Association of America to explain copyright law and how it specifically applies to music on the Internet.]

Ringer, Barbara A. *Copyright and the Future of Authorship*. Reprinted in *Library Journal*. Vol. 119, No. 19, November 15, 1994. pp. S2-S3.

[Barbara Ringer was the U.S. Register of Copyrights during the last major revision of the U.S. copyright statute which was enacted in 1976; she wrote this article, originally published on January 1, 1976, at that time.]

Risher, Carol. *Libraries, Copyright and the Electronic Environment*. International Publishers Association, April 1996. 5 pp.

<<http://www.ipa-uie.org/>>

[A position paper presented by Risher of the Association of American Publishers on behalf of the International Publishers Copyright Council at the International Publishers Association 25th Congress in Barcelona, Spain, in 1996.]

Samuelson, Pamela. *Legally Speaking: Copyright and Digital Libraries*. Communications of the ACM. Vol. 38, No. 4. April 1995. pp. 15-21, 110.

[This issue of ACM Communications highlights many projects underway for the creation or enhancement of digital libraries; this column by Samuelson, lawyer and professor in the Schools of Law and of Information Management & Systems, at the University of California at Berkley, focuses on the principal copyright issues facing developers and consumers of digital libraries.]

Samuelson, Pamela. *Self-Plagiarism or Fair Use?* Communications of the ACM. Vol. 37, August 1994. p.21+.

<<http://www.ilt.columbia.edu/projects/copyright/papers/samuelson.html>>

[Samuelson's column explores the legal and ethical issues related to whether or not it is "fair" for authors to reuse portions of their previous writings in subsequent articles or reports.]

Software Publishers Association. *Higher Education Initiative*.

<<http://www.spa.org/piracy/highered/>>

[SPA's educational initiative targeted at colleges and universities, intended to educate all members of the campus community about legal and appropriate software use. As more and more campuses are becoming *wired*, these issues are taking an expanded and more pressing role. The Student Monitor Computing Survey reported that nearly one-third of all students acquire software by "borrowing it" from a friend -- and 42% approve of this practice, according to the SPA.]

Software Publishers Association. *Don't Copy That Floppy*. Videotape. 1992.

<<http://www.spa.org/publications/catalog/pg33.htm>>

[In this 8-minute rap video, junior high and high school students discuss why it is unfair to copy computer games.]

Software Publishers Association and Association of American Publishers. *A Shared Set of Values*. Videotape. 1997.

<<http://www.spa.org/publications/catalog/pg33.htm>>

[12-minute videotape produced jointly by SPA and AAP in which college students, faculty and copyright owners discuss the law and ethics of copying books and software.]

Steiner, Christine, Stephen E. Weil and Michael S. Shapiro. *The Fair Use Debate*. Museum News. Vol. 76, No. 5, September/October 1997. pp. 32-37, 38, 41, 48-49.

["As rights holders and fair users, museums have positions to protect in both camps," notes Christine Steiner, Counsel to the J. Paul Getty Trust. This issue of Museum News contains 3 articles by noted museum experts: Christine Steiner's *The Double Edged Sword: Museums and the Fair Use Doctrine*; Stephen Weil's *Not Money, Control*; and Michael S. Shapiro's *Not Control, Progress*.]

Stowe, David W. *Just Do It: How to Beat the Copyright Racket*. *Lingua Franca*. Vol. 6, No. 1, December 1995. pp. 32-42.

[The author teaches at Michigan State University and describes the difficulties and expenses academic scholars face in obtaining permissions to use portions of copyrighted works, particularly for those studying contemporary culture.]

Templeton, Brad. *10 Big Myths About Copyright Explained: An Attempt to Answer Common Myths About Copyright Seen on the Net*.

<<http://www.templetons.com/brad/copymyths.html>>

[This web-based essay by a publisher of an electronic newspaper on the net is an attempt to answer common "myths" about copyright seen on the net and covers issues related to copyright and Usenet/Internet publication.]

Town Meeting on Copyright and Fair Use: Copyright and Fair Use in the Digital World: Views from the Worlds of Scholarship, Publishing and Museums. February 26, 1998.

<<http://www.pipeline.com/~rabaron/ttm/TTM.htm>>

[This final meeting in the series of five 1997-98 town meetings was held at the 1998 Annual Meeting of the College Art Association in Toronto, Canada on February 26, 1998, and included presentations on copyright initiatives and resource delivery. See also David Green's *Town Meetings-Final Report*.]

Trant, Jennifer and Bearman, David. *The Art Museum Image Consortium: Licensing Museum Digital Documentation for Educational Use*, Museum Computer Networks-Spectra. Fall 1997. 7 pp.

<<http://www.archimuse.com/papers/amico.spectra.9708.html>>

[The Association of Art Museum Directors launched the Art Museum Image Consortium (AMICO) in 1997 to provide educational access to and delivery of cultural heritage information by creating, maintaining and licensing a collective digital library of images and documentation of works in their collections.]

U.S. Copyright Office. *Copyright Act of 1976*, as amended.

<<http://lcweb.loc.gov/copyright/title17/preface1.html>>

[The copyright law of the United States of America, as codified in Title 17 of the U.S. Code. 17 U.S.C. §§101, et seq.]

U.S. Copyright Office. *Copyright Basics*. Circular 1, 1996. 12 pp.

<<http://lcweb.loc.gov/copyright/circls/circ1.pdf>>

[Copyright Office Circular Number 1 attempts to provide general information and answer some of the basic questions that are frequently asked about copyright.]

U.S. Copyright Office. *Fair Use*, FL 102 (form letter), December 1994.

<<http://lcweb.loc.gov/copyright/fls/fl102.htm>>

[One-page form letter on summarizing basic fair use principles.]

U.S. Copyright Office. *Reproduction of Copyrighted Works by Educators and Librarians*.

Circular 21, 1992. 26 pp.

<<http://lcweb.loc.gov/copyright/circs/circ21>>

[This circular includes excerpts from pertinent congressional documents and legislative provisions relating to fair use and libraries photocopying the U.S. copyright law, and other relevant documents dealing with reproduction of copyrighted works by librarians and educators including the 4 sets of educational and library fair use guidelines incorporated in U.S. congressional documents in the mid-70's and early 80's.]

U.S. Information Infrastructure Task Force, Working Group on Intellectual Property Rights, Bruce Lehman, Chair. *Conference on Fair Use: Report to the Commissioner on the Conclusion of the First Phase of the Conference on Fair Use*. Washington, DC. U.S. Patent and Trademark Office. 1997.

321 pp.

<<http://www.uspto.gov/web/offices/dcom/olia/confu/>>

[The September 1997 interim report on CONFU "documents the genesis and history of CONFU, contains proposals for educational fair use guidelines for digital images and distance learning, and the guidelines adopted for educational multimedia, together with all of the individual comments and institutional notifications received concerning the proposals for guidelines.]

U.S. Information Infrastructure Task Force, Working Group on Intellectual Property Rights, Bruce Lehman, Chair. *Intellectual Property and the National Information Infrastructure: Report of the Working Group on Intellectual Property Rights*. Washington, DC: U.S. Patent and Trademark Office, 1995.

238 pp.

<<http://www.uspto.gov/web/offices/com/doc/ipnii>>

[The U.S. government "white paper" that examined and analyzed each of the major areas of intellectual property law, focusing primarily on copyright law and its application and effectiveness in the context of the NII, which included a discussion of fair use and the proposal to convene the Conference on Fair Use (CONFU), pages 73-84.]

Wiant, Sarah K. *Conference on Fair Use Generates Understanding, But Little Results*.

Information Outlook. Vol. 1, No. 11, November 1, 1997. pp. 28-30.

[Wiant, Director of the Law Library at Washington and Lee University who participated in most CONFU meetings, describes the development of guidelines under CONFU, the failure to garner enough support for their approval, and presents the views of the Special Libraries Association, which endorsed the guidelines as a starting point for further discussion in the context of evolving technology and changing needs of users.]

This list identifies websites which contain references, links, and additional informational resources and opinions on copyright, educational and library fair use issues.

WEBSITES

American Library Association. Website.

[<http://www.ala.org/washoff/ipinfo.html>](http://www.ala.org/washoff/ipinfo.html)

[ALA's website with copyright-related information.]

American Society of Composers, Authors and Publishers (ASCAP) Website.

<http://www.ascap.com/licensing/licensing.html>

[ASCAP is a music performing rights licensing organization that represents song writers and publishers, this section of the website provides information about music licensing and copyrights.]

Association of American Publishers. Website.

[<http://www.publishers.org/home/confpub/index.htm>](http://www.publishers.org/home/confpub/index.htm)

[Website section with publishers' views on copyright.]

Association of Research Libraries. Website.

[<http://www.arl.org/info/frn/copy/copytoc.html>](http://www.arl.org/info/frn/copy/copytoc.html)

[ARL's copyright and intellectual property website section.]

BMI. Website.

[<http://bmi.com/licensing/index.html>](http://bmi.com/licensing/index.html)

[Broadcast Music, Inc. (BMI) is a music performing rights licensing organization that represents song writers and publishers; this section of its homepage provides answers to questions about music licensing and copyright.]

Copyright and Art Issues. Website.

[<http://oregon.uoregon.edu/~csundt/cweb.htm>](http://oregon.uoregon.edu/~csundt/cweb.htm)

[This website was compiled by Christine L. Sundt, University of Oregon, with links to many sources of copyright information about copyright and art issues.]

Copyright Clearance Center. Website.

[<http://www.copyright.com/copyright_resources/res_pages.html>](http://www.copyright.com/copyright_resources/res_pages.html)

[The Copyright Clearance Center is a not-for-profit organization created in 1978 at the suggestion of the U.S. Congress to help organizations and individuals comply with U.S. copyright law through its licensing programs which provide authorized users with a lawful means for making photocopies from its repertory of over 1,750,000 titles.]

Copyright Society of the U.S.A. Website.

<<http://www.csusa.org>>

[The Copyright Society of the U.S.A. is a nonprofit, non-advocacy organization whose mission is to foster interest in and advance the study of copyright law and of rights in literature, music, art, the theater, motion pictures, television and other forms of intellectual property and works of authorship; its website contains information on copyright-related issues.]

Cornell University. Website.

<<http://www.law.cornell.edu/topics/copyright.html>>

[Cornell University's Legal Information Institute's "Law About Copyright" website pages provide brief summaries about copyright law with links to key primary source material, other Internet resources, and additional print-based sources.]

Creative Incentive Coalition. Website.

<<http://www.cic.org/about/index.htm>>

[The Creative Incentive Coalition represents individuals and organizations supporting copyright on the Internet and ratification of two new international treaties adopted at the World Intellectual Property Organization Diplomatic Conference in Geneva in 1996 that require nations around the world to strengthen copyright laws and would extend copyright protections to cyberspace. The Coalition works to educate the public and policy makers on vital issues related to copyright on the Internet.]

Digital Future Coalition. Website.

<<http://www.dfc.org>>

[The Digital Future Coalition, formed in 1995, is a collaboration of non-profit educational, scholarly, library, and consumer groups, together with some major commercial trade associations, which is committed to "striking an appropriate balance in law and public policy between protecting intellectual property and affording public access to it." The DFC website contains copyright-related information.]

Getty Information Institute. Website.

<http://www.gii.getty.edu/index/i_property.html>

[Links to intellectual property sources maintained on the website of the Getty Information Institute, which is part of the J. Paul Getty Trust, a private operating foundation dedicated to the visual arts and the humanities.]

Indiana University. Copyright Management Center. Website.

<<http://www.iupui.edu/it/copyinfo>>

[Maintained as a resource for the academic community, this site offers access to resources about copyright and its importance to higher education. Topics of particular interest include fair use and distance learning.]

Institute for Learning Technologies. Website.

<<http://www.ilt.columbia.edu/projects/copyright/index.html>>

[The Institute for Learning Technologies (ILT) at Columbia University website on "Guide to Copyright", includes access to "Copyright Resources for Education Online (CREDO)", a database of original material developed by ILT for educators.]

International Publishers Association. Website.

<<http://www.ipa-uie.org/>>

[IPA's website section devoted to "*Publishers and Librarians Views*".]

International Federation of Library Associations and Institutions. Website.

<<http://www.nlc-bnc.ca/ifla/II/copyright.htm>>

[IFLA's "Copyright and Intellectual Property Resources" website.]

Music Library Association. Website.

<<http://www.musiclibraryassoc.org/Copyright/copyhome.htm>>

[MLA's website on copyright, "A Guide to Copyright for Music Libraries".]

National Association of College Stores. Website.

<<http://www.nacs.org/info/copyright>>

[NACS's website for copyright information; includes a statement on the importance of copyright, Q&A concerning copyright compliance, procedures for obtaining permission to copy including coursepack permission request forms and the guidelines for classroom copying.]

National Initiative for a Networked Cultural Heritage. Website.

<<http://www-ninch.cni.org/issues/copyright.html>>

[The NINCH website includes a section on "Copyright, Fair Use and Licensing in a Digital World", with information on international copyright development, domestic copyright legislation, fair use education including CONFU and fair use town meetings.]

SESAC. Website.

<<http://www.sesac.com/license.html>>

[SESAC, Inc. is a music performing rights organization with headquarters in Nashville, Tennessee, that represents songwriters and publishers; this section of its website provides information about music licensign and copyright.]

Software Publishers Association. Website.

<<http://www.spa.org/piracy>>

[The Software Publishers Association, a trade association of software developers and producers, conducts a comprehensing program of education, legal enforcement and public policy to fight the problem of software piracy; its education program provides tools for educators and others to help teach respect for copyright in software.]

Stanford University. Websites.

<<http://fairuse.stanford.edu/>> [Website on "Copyright and Fair Use".]

<<http://palimpsest.stanford.edu/bytopic/intprop>> [Website on "Copyright and Intellectual Property", with many documents and links related to libraries, education, copyright and fair use.]

University of North Carolina. Website.

<<http://www.lib.ncsu.edu/issues/copyright.html>>

[Website of "Copyright and Fair Use Information".]

University of Texas System. "Copyright Management Center". Website.

<<http://www.utsystem.edu/OGC/intellectualproperty/cprtindx.htm>>

[Contains many resources related to copyright in libraries and includes an interactive "Software and Database License Agreement Checklist."]

University of Virginia. University of Virginia Law Library "Copyright and Fair Use" gophersite.

<<gopher://gopher.lib.Virginia.edu:70/II/alpha/copyright>>

U.S. Copyright Office.

Website. <<http://lcweb.loc.gov/copyright/>>

<[gopher: marvel.loc.gov](gopher:marvel.loc.gov)>

<[telnet: locis.loc.gov](telnet:locis.loc.gov)> to access Copyright Office online files.

[Most of the information published by the U.S. Copyright Office on paper is also available for viewing and downloading from the Office's website and gopher site, including information circulars, federal copyright regulations, the Register's testimony, the Office's recent major reports, application forms, and access to Copyright Office records dating from 1978.]

U.S. Patent and Trademark Office. CONFU website.

<<http://www.uspto.gov/web/offices/dcom/olia/confu/index.html>>

[The CONFU portion of this website includes the previous reports, comments, and notifications recieved in connection with the proposals for education fair use guidelines.]

Washington State University. Website.

<<http://www.publications.wsu.edu/copyright/copyright.html>>

[Website for the Copyright Office of Washington State University with links to articles, fact sheets and guidelines on copyright.]

WATCH: Writers, Artists and Their Copyright Holders. Website.

<<http://www.lib.utexas.edu/Libs/HRC/WATCH/>>

[The WATCH website is maintained by the Harry Ransom Humanities Research Center at the University of Texas at Austin and the University of Reading to provide basic information about U.S. copyright law to researchers and to help users locate copyright holders.]

Yale University. Website.

<<http://www.library.yale.edu:80~okerson/copyright.html>>

[Website with "Copyright Resources Online".]

ListSerts**ASJA Contracts Watch ListServ.**

<<http://www.asja.org/cwpage.htm>>

[An Internet electronic newsletter from the Contracts Committee of the American Society of Journalists and Authors, keeping authors informed about the latest terms for publication in periodicals, print and electronic.]

CNI-COPYRIGHT ListServ.

<<http://www.cni.org/Hforums/cni-copyright>>

<<Gopher://gopher.cni.org:7011/cniftp/forums/cni/copyright>>

[An Internet discussion list on copyright and intellectual property related issues, with discussion among diverse contributors who may have expertise on copyright or who are seeking answers to their questions, sponsored by the Coalition for Networked Information.]

LibLicense ListServ.

<<http://www.library.yale.edu/~Llicense/index.shtml>>

[Licensing Electronic Resources website and listserv, an Internet discussion list on library licensing issues and electronic content licensing for academic and research libraries, sponsored by Yale University Library, the Commission on Preservation & Access, and the Council on Library and Information Resources and including sample license language and commentary.]

U.S. Copyright Office NewsNet.

<<http://lcweb.loc.gov/copyright/cpypub/newsnet.html>>

[A free electronic mailing list (not an interactive discussion list) with periodic email messages to alert subscribers to hearings, new publications, new and proposed regulations and other copyright-related subjects of interest, offered by the U.S. Copyright Office.]

VRA ListServ.

<<http://www.oberlin.edu/~art/vra/list.html>>

[An Internet discussion list and electronic mail bulletin board for the exchange of ideas, questions and comments on issues related to the visual arts, including copyright, sponsored by the Visual Resources Association.]

B. DIRECTORY OF PARTICIPANT ORGANIZATION INFORMATION

AGENCY FOR INSTRUCTIONAL TECHNOLOGY (AIT)

DESCRIPTION: The Agency for Instructional Technology is a nonprofit U.S.-Canadian education agency. AIT fosters learning for pre-K through adult students.

MISSION: To develop, acquire, and distribute quality technology-based instructional resources and services; and provide leadership to the educational technology policy community.

MAILING ADDRESS: Agency for Instructional Technology
Box A
1800 North Stonelake Drive
Bloomington, IN 47402-0120

CONTACT PERSON: Michael F. Sullivan

TELEPHONE: 812/339-2203

FACSIMILE: 812/333-4218

E-MAIL: sullivan@ait.net

WEBSITES: www.ait.net
www.technos.net

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES:

-What's Fair? A Report on the Proceedings of the National Conference on Educational Fair Access and the New Media. Agency for Instructional Technology. 1994.

AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE (AAAS)

DESCRIPTION: The American Association for the Advancement of Science is a not-for-profit, private scientific association.

MISSION: The mission of the AAAS is "to improve the effectiveness of science in the promotion of human welfare."

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: AAAS has been actively involved in discussions related expanded protection for databases and has issued a formal Statement on Intellectual Property Protection for Databases (October 31, 1997).

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: A proposal for a two-year study of intellectual property issues related to electronic publishing in science is under review by the National Science Foundation.

MAILING ADDRESS: American Association for the Advancement of Science
1200 New York Avenue, N.W.
Washington, DC 20005

CONTACT PERSON: Mark S. Frankel

TELEPHONE: 202-326-6793

FACSIMILE: 202-289-4950

E-MAIL: mfrankel@aaas.org

WEBSITE: <http://www.aaas.org/spp/dspp/sfsl/sfsl.htm>

**PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE
ISSUES:** None.

AMERICAN ASSOCIATION OF COMMUNITY COLLEGES

DESCRIPTION: The American Association of Community Colleges (AACC) represents a network of more than 1000 community, technical, and junior colleges that serve the broad public interest by providing access to quality higher education for millions of individuals. A primary function of AACC is to help identify public interest challenges and assist member colleges in responding to them.

MISSION: The primary mission of AACC is to exert national leadership in support of community colleges.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: At its annual convention, AACC continues to hold forums on copyright and fair policy. In addition, it has a Commission on Learning and Communications Technologies with advises the AACC Board of Directors on issues facing community colleges in the copyright and fair use areas.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: AACC will continue to share information with its membership through its communication vehicles, *Community College Times* and *Journal*. The August/September 1998 issue of the *Journal* includes an article on copyright and fair use. In addition, AACC is considering producing a white paper publication on the subject.

MAILING ADDRESS: American Association of Community Colleges
One Dupont Circle, N.W., Suite 410
Washington, DC 20036

CONTACT PERSON: Monica W. Pilkey
Director of Telecommunications

TELEPHONE: 202-728-0200

FACSIMILE: 202-833-2467

E-MAIL: ccsn@aacc.nche.edu

WEBSITE: www.aacc.nche.edu

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

ASSOCIATION OF AMERICAN COLLEGES AND UNIVERSITIES (AACU)

DESCRIPTION: The Association of American Colleges and Universities (AACU) is a higher education, institutional membership association with some 700 members representing every type of college and university in the U.S., Canada and abroad. Members range from community colleges, liberal arts colleges and public and private research institutions to tribal colleges, single sex institutions and historically black colleges and universities.

MISSION: To improve undergraduate liberal education. Current program initiatives with this aim cover five priority areas: institutional leadership, faculty development, curriculum, diversity learning, and global education.

COPYRIGHT AND FAIR USE-RELATED PROGRAMS/PROJECTS: Publications development -- a variety of monographs, a journal, *Liberal Education*, and two newsletters, *On Campus With Women* and *Connections*. AACU also did two sessions at AACU Annual Meetings on fair use of copyrighted works with Lisa Lederer, Government Relations Director, Consortium of College and University Media Centers, Frank Connolly, of American University, and Mary Levering, Associate Register of Copyright.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: At present, plans call for publications and video development.

MAILING ADDRESS: Association of American Colleges and Universities
1818 R Street, NW, Washington, DC 20009

CONTACT: Joann Stevens
Vice President for Communications

TELEPHONE: 202-387-3760

FACSIMILE: 202-265-9532

E-MAIL: Stevens@aacu.nw.dc.us

WEBSITE: <http://www.aacu-edu.org>

PUBLICATIONS/WEBSITES ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES:

-*Liberal Education*, Fall 1996, Vol. 82. No. 4 "Fairuse in an Educator's Multimedia World" by Frank Connolly, professor of computer science and information systems at American University.

-DiversityWeb (<http://www.inform.umd.edu/DiversityWeb>) is an informational resource and meeting place for institutional planners working on diversity curriculum development and diversity learning programs

-Diversity Newsroom (<http://www.inform.umd.edu/DiversityNews>) is an informational resource for media that highlights how diversity learning is transforming the campus, the community, and the workplace.

AMERICAN ASSOCIATION OF LAW LIBRARIES (AALL)

DESCRIPTION: The American Association of Law Libraries was founded in 1906 to promote and enhance the value of law libraries to the legal and public communities, to foster the profession of law librarianship, and to provide leadership in the field of legal information. Today, with 4,800 members, the Association represents law librarians and related professionals who are affiliated with a wide range of institutions: law firms; law schools; corporate legal departments; courts; and local, state and federal government agencies.

MISSION: Recognizing that the availability of legal information to all people is a necessary requirement for a just and democratic society, the American Association of Law Libraries exists to promote and enhance the value of law libraries to the public, the legal community, and the world, to foster the profession of law librarianship, and to provide leadership in the field of legal information and information policy.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: AALL has published the following: *Guidelines on the Fair Use of Copyrighted Works by Law Libraries* (1997); *Model Law Firm Copyright Policy* (1996).

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None at this time.

HEADQUARTERS: American Association of Law Libraries
53 West Jackson Boulevard, Suite 940
Chicago, IL 60604

WASHINGTON OFFICE: Georgetown University Law Center
Edward Bennett Williams Law Library
111 G Street, N.W., Washington, DC 20001-1417

CONTACT PERSON: Robert L. Oakley, AALL Washington Representative

TELEPHONE: 202-662-9160

FACSIMILE: 202-662-9168

E-MAIL: oakley@law.georgetown.edu

WEBSITE(s): AALL: www.aallnet.org
AALL Washington Office: www.ll.georgetown.edu/aallwash

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: -- *Guidelines on the Fair Use of Copyrighted Works by Law Libraries*, AALL Spectrum v. 2, n. 6 (March 1998):14 (http://www.aallnet.org/handbook/policy_fair.html)

-- *Model Law Firm Copyright Policy*, AALL Spectrum v. 1, n. 4 (December 1996):28 (http://www.aallnet.org/committee/copyright/model_law.html)

ASSOCIATION OF AMERICAN MEDICAL COLLEGES (AAMC)

DESCRIPTION: The Association of American Medical Colleges (AAMC) is a nonprofit association comprising the 125 accredited U.S. medical schools; the 16 accredited Canadian medical schools; more than 400 major teaching hospitals and health systems, including 70 Department of Veterans Affairs medical centers; nearly 90 academic and professional societies representing 75,000 faculty members; and the nation's medical students and residents.

MISSION: The mission of the Association of American Medical Colleges is to improve the health of the public by enhancing the effectiveness of academic medicine. The AAMC pursues its mission by assisting academic medicine's institutions, organizations, and individuals in carrying out their responsibilities for:

- educating the physician and medical scientist workforce;
- discovering new medical knowledge
- developing innovative technologies for prevention, diagnosis and treatment of disease;
- providing health care services in academic settings.

MAILING ADDRESS: American Association of Medical Colleges
2450 N Street, NW, Washington, DC 20037

TELEPHONE: 202-828-0400

FACSIMILE: 202-828-1125

WEBSITE: <http://www.aamc.org>

CONTACT PERSON: Morgan Passiment, Staff Associate
Telephone: 202-828-0476
Facsimile: 202-828-1125
E-Mail: mpassiment@aamc.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

ASSOCIATION OF ART MUSEUM DIRECTORS

DESCRIPTION: The Association of Art Museum Directors (AAMD) is a not-for-profit association of art museum directors.

MISSION: The Association of Art Museum Directors (AAMD), founded in 1916, is a national not-for-profit membership organization representing 170 directors of the major art museums in the United States, Canada, and Mexico. Its purpose is to aid its members in establishing and maintaining the highest professional standards for themselves and the museums they represent, thereby exerting leadership in increasing the contribution of art museums to society. It serves as a forum for the exchange of information and the exploration of ideas, and as a voice with which museum directors may express their joint concerns and those of their institutions.

MAILING ADDRESS: Association of Art Museum Directors
1319 F Street, NW, Suite 707
Washington, DC 20004

CONTACT PERSON: Anita M. Difanis

TELEPHONE: 202-638-4520

FACSIMILE: 202-638-4528

E-MAIL: AAMDGOV@aol.com

WEBSITE: www.amn.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

AMERICAN ASSOCIATION OF MUSEUMS (AAM)

DESCRIPTION: The American Association of Museums (AAM) is the national association representing the concerns of the museum community. AAM assesses museum programs and accredits museums, provides education and training for museum professionals, operates international museum programs, and advocates for the advancement of museums. Since its founding in 1906, AAM has grown to include more than 15,800 members, including more than 11,300 museum professionals, 3,000 museums, and 1,500 corporate members.

MISSION: The primary goal of AAM is to lead the efforts to maintain professional standards by improving the quality of museum programs and operations and training of personnel.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS:

Museums and Intellectual Property: A Primer for the Field, National Initiative for a Networked Cultural Heritage, American Strategy, Museum Digital Licensing Collective, and Copyright Committee.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE:

Listed in body of document listed above.

MAILING ADDRESS: American Association of Museums
1575 Eye Street, NW, Suite 400
Washington, DC 20005

CONTACT PERSON: Patricia E. Williams or Barry Szczesny

TELEPHONE: 202-289-9111

FACSIMILE: 202-289-6578

E-MAIL: pwilliam@aam-us.org or bszczesn@aam-us.org

WEBSITE: www.aam-us.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

ASSOCIATION OF AMERICAN PUBLISHERS (AAP)

DESCRIPTION: The Association of American Publishers (AAP) is the national trade association of the U.S. book publishing industry. AAP's approximately 200 members include both commercial and non-profit publishers of books, journals, instructional materials, online databases and computer software and CD-ROMs. Many of the published products are sold in global as well as domestic markets. AAP members are both owners of copyright and users of copyrighted materials.

MISSION: AAP's primary concerns are the protection of intellectual property rights in all media, the defense of free expression and freedom to publish at home and abroad, the management of new technologies, development of educational markets, and funding for instructional materials.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: AAP works to enhance public awareness of the importance of copyright as an incentive to creativity. AAP publishes booklets and copyright and offers seminars and training programs on copyright both in the U.S. and abroad. AAP members are speakers at copyright symposia around the world. AAP coordinates strategic litigation around the world and participates in legislative and regulatory activities on behalf of its members.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: AAP will continue its activities on behalf of the American publishing industry to educate, inform and enforce copyright and to work with legislatures and international bodies to insure adequate and effective copyright laws around the world.

MAILING ADDRESS: Association of American Publishers
1718 Connecticut Avenue, NW
Washington, DC 20009-1148

CONTACT PERSON: Carol Risher, Vice President, Copyright

TELEPHONE: 202-232-3335 ext. 228

FACSIMILE: 202-745-0694

E-MAIL: crisher@publishers.org

WEBSITE: <http://www.publishers.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES:

- Position Paper on Contractual Licensing, Technological Measures, and Copyright Law (<http://www.publishers.org/copyright/licensing.html>)
- AAP Statement on Document Delivery (<http://www.publishers.org/statement.html>)
- AAP Position Paper on Scanning (<http://www.publishers.org/scanning.html>)
- The Copyright Primer: A Survival Guide to the Copyrights and Permissions Process (<http://www.publishers.org/copyright/primer.html>)
- Libraries, Copyright and the Electronic Environment (http://www.ipa-uie.org/ipcc_bcn.html)
- Publishers and Librarians Views (http://www.ipa-uie.org/pub_lib.html)

ASSOCIATION OF AMERICAN UNIVERSITIES (AAU)

DESCRIPTION: The AAU is an organization of 60 US and 2 Canadian research universities. The universities are represented within the organization by the presidents and chancellors of those institutions.

MISSION: The AAU serves its membership in two major ways: assistance in developing national policy positions on issues that relate to academic research, undergraduate and graduate education, and providing member presidents with a forum for discussing a broad range of institutional issues such as accreditation, tenure, and diversity.

COPYRIGHT AND/OR FAIR USE PROJECTS/PROGRAMS: Digital Networks and Intellectual Property Management Committee addresses national and institutional policies governing copyright and other intellectual policies affecting university research and education programs. Current initiatives include: addressing federal legislative initiatives governing copyright, database, and digital networks; and a task force examining opportunities for new forms of scholarly communication in the digital environment.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: Educational campaign, conducted in collaboration with the Association of Research Libraries, to inform faculty about intellectual property management issues, and to equip university administrators to develop institutional policies on intellectual property that respond to the opportunities and challenges of the digital environment.

MAILING ADDRESS: Association of American Universities
1200 New York Avenue, NW, Suite 550
Washington, DC 20005

CONTACT PERSON: John C. Vaughn, Executive Vice President

TELEPHONE: 202-408-7500

FACSIMILE: 202-408-8184

E-MAIL: john_vaughn@aau.edu

WEBSITE: www.tulane.edu/~aau

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None

AMERICAN CHEMICAL SOCIETY, PUBLICATIONS DIVISION

DESCRIPTION: The American Chemical Society was founded in 1876 and is a not-for-profit organization. It is the world's largest scientific society and has a membership of over 155,000 chemists and chemical engineers. The American Chemical Society was chartered by a 1937 Act of the U.S. Congress.

MISSION: The mission of the American Chemical Society is to encourage in the broadest and most liberal manner the advancement of the chemical enterprise and its practitioners.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: There are a number of copyright information items that are posted on ACS's Website at <<http://pubs.acs.org/cgi-bin/display-copyright?jacsat>>. For example, there are permission guidelines as well as a copyright information pamphlet.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: The Society's Copyright Committee has been working on a teaching module on copyright; this material will be posted in late 1998.

MAILING ADDRESS: Publications Division
American Chemical Society
1155 16th Street, N.W., Washington, DC 20036

CONTACT PERSON: Barbara F. Polansky, Administrator, Copyright

TELEPHONE: 202-872-4367

FACSIMILE: 202-872-6060

E-MAIL: bpolansky@acs.org

WEBSITE(s): <http://www.acs.org>
<http://pubs.acs.org>
<http://www.ChemCenter.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: From the American Chemical Society, Publications Division:
Are You Up to Date on Copyright Issues? posted at: <http://pubs.acs.org/instruct/pamphlet.html>

Other copyright-related information is posted on each website for the various ACS journals and magazines, for example: <http://pubs.acs.org/cgi-bin/display-copyright?jacsat>

AMERICAN LIBRARY ASSOCIATION WASHINGTON OFFICE

DESCRIPTION: The American Library Association (ALA) is a nonprofit educational organization of 57,000 public, school, academic and specialized librarians, library educators, library trustees, and friends of libraries that promotes the highest quality library and information services and protects public access to information.

MISSION: ALA's mission is to provide leadership for the development, promotion, and improvement of library and information services and the profession of librarianship in order to enhance learning and ensure access to information for all. The ALA Washington Office mission is to follow and influence policy issues, legislation, and regulations of importance to the library field and its publics.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: ALA, its divisions and other units regularly schedule conference programs on copyright, fair use, and related issues. ALA provides guidance to its members on such issues, often with library association partners. Example: *Principles for Licensing Electronic Information Resources*, final draft, July 15, 1997. ALA's Washington Office monitors intellectual property law and policy and promotes balance in copyright law. ALA is a member of the Digital Future Coalition.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: With library association partners, ALA seeks to identify and promote model practices in libraries for the benefit of the field and to explore opportunities for continuing education regarding copyright, fair use, and related issues.

MAILING ADDRESS: ALA Washington Office
1301 Pennsylvania Avenue, NW, Washington, DC 20004

CONTACT PERSON: Adam M. Eisgrau, Legislative Counsel
ALA Washington Office

TELEPHONE: 202-628-8410 or 1-800-941-8478

FACSIMILE: 202-628-8419

E-MAIL: ame@alawash.org

WEBSITE: www.ala.org/washoff/ipinfo.html

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: ALA has an extensive publications program at its headquarters in Chicago. Contact ALA Publications at 1-800-545-2433 for information on copyright-related publications. ALA's website provides copyright related information at: www.ala.org/washoff/ipinfo.html. Additional copyright-related information may be found at the Digital Future Coalition website: www.dfc.org

ART MUSEUM IMAGE CONSORTIUM (AMICO)

DESCRIPTION: Non- profit consortium of institutions with collections of art.

MISSION: Enable educational use of museum multimedia documentation.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS:

- Licensed educational use of a growing digital library of documentation of members collections, in text, visual and multimedia formats.
- Collaborative development of licenses with users: Universities, Museums, Kindergarten through Grade 12 Schools, and Public Libraries.
- Demonstration projects in all constituencies to evaluate license terms and strategies for delivery and support of the AMICO Library.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE:

- Collaboration with artists rights organizations and artists themselves to enable educational use of 20th Century materials.
- Development of standard procedures to facilitate rights negotiations.
- Ongoing distribution of the Library, internationally.

MAILING ADDRESS: AMICO
5501 Walnut Street, Suite 203, Pittsburgh, PA 15232

CONTACTS: Jennifer Trant or David Bearman
Management Consultants

TELEPHONE: 412-683-9775

FACSIMILE: 412-683-7366

E-MAIL: Jennifer Trant: jtrant@amico.net
David Bearman: dbear@amico.net

WEBSITE: www.amico.net

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES:

Full background details on AMICO and the full texts of all its licenses can be found on the AMICO Web site <<http://www.amico.net/>>. *Highlights include:*

- License for University Educational Use, 1998.
- AMICO Membership Agreement, 1998.
- License to AMICO, 1998.
- J. Trant and D. Bearman, "The Art Museum Image Consortium: Licensing Museum Digital Documentation for Educational Use," *Spectra*, Fall 1997.
- AMICO Meeting Report, Chicago, September 22-23, 1997.
- AMICO Meeting Report, Minneapolis June 3-4, 1997.
- Art Museum Image Consortium (A Preliminary Report), March 22, 1997.

ASSOCIATION OF RESEARCH LIBRARIES (ARL)

DESCRIPTION: A nonprofit membership organization comprised of the libraries of 121 North American research institutions, ARL operates as a forum for exchanging ideas and as an agent for collective action.

MISSION: The mission of ARL is to shape and influence forces affecting the future of research libraries in the process of scholarly communication.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Copyright in the Digital Age: A Leadership Workshop for Librarians; ARL/CNI Licensing Symposium; Licensing Review and Negotiation: Building a Team-Based Institutional Process Workshops; co-sponsored 1997 Pew Roundtable Discussion on Managing Intellectual Property; regular collaboration with library and education associations in disseminating copyright and fair use information, including National Humanities Alliance, Shared Legal Capability, Digital Future Coalition, and NINCH. ARL staff serve on copyright and IP committees and regularly present on copyright, licensing, and intellectual property issues to audiences including librarians, publishers, authors, and the higher education communities. Directors of ARL member libraries serve on numerous national and international copyright and IP committees, such as the AAU Committee on Digital Networks and Intellectual Property.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE:

Continuation of the licensing and copyright workshops, expansion of Web sites, publications, public presentations, and development of an educational campaign on copyright and IP issues. ARL is also developing a licensing workshop specifically aimed at the publishing community.

MAILING ADDRESS: Association of Research Libraries
21 Dupont Circle, N.W., Suite 800, Washington, DC 20036

CONTACT PERSON: Mary E. Jackson, Access & Delivery Services Consultant

TELEPHONE: 202-296-2296

FACSIMILE: 202-872-0884

E-MAIL: mary@arl.org

WEBSITE: <http://www.arl.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: ARL Copyright & Intellectual Property website: <http://www.arl.org/info/fm/copy/copytoc.html>.

Selected publications include:

- June 1997 issue of *ARL Newsletter* devoted to copyright and fair use in digital environments (<http://www.arl.org/newsltr/192/intro.html>);
- *Principles For Licensing Electronic Resources* (<http://www.arl.org/scomm/licensing/principles.html>);
- *Licensing Electronic Resources: Strategic and Practical Considerations for Signing Electronic Information Delivery Agreements* (1997)
- *Copyright and the NII: Resources for the Library and Education Community* (1996)
- *A Copyright Handbook: An ARL Compilation of Key Resources for Librarians* (1996)
- *Basic Principles for Managing Intellectual Property in the Digital Environment; Copyright, Public Policy, and the Scholarly Community* (1995) (<http://www.arl.org/scomm/cppsc/index.html>);
- *Intellectual Property: An Association of Research Libraries Statement of Principles* (1994)

ART LIBRARIES SOCIETY OF NORTH AMERICA (ARLIS/NA)

DESCRIPTION: The Art Libraries Society of North America (ARLIS/NA) is a professional society for art information professionals.

MISSION: To provide a forum for ideas, projects, and programs for art information specialists.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: ARLIS/NA
4101 Lake Boone Trail, Suite 201
Raleigh, NC 27607-7596

CONTACT PERSON: Penney De Pas, CAE
Executive Director

TELEPHONE: 919-787-5181 or 800-89-ARLIS

FACSIMILE: 919-787-4916

E-MAIL: pdepas@olsonmgmt.com

WEBSITE: <http://www.lib.duke.edu/lilly/arlis/>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS (ASCAP)

DESCRIPTION: ASCAP is one of the oldest and largest performing rights society in the United States. It represents its members by licensing and distributing royalties for the non-dramatic public performances of their copyrighted musical works. ASCAP was formed as and remains a voluntary association of composers, authors and publishers, managed by members elected to its Board. ASCAP has agreements with nearly 60 foreign performing rights societies that perform similar licensing, royalty collection and clearinghouse functions around the world.

MISSION: ASCAP acts as a clearinghouse for creators and users of music. On behalf of its members, ASCAP licenses those who perform its members' copyrighted music publicly, including radio and television broadcasters, cable programmers, live concert promoters, symphony orchestras, shopping malls, bars and web sites. ASCAP also participates in compulsory license proceedings conducted under the aegis of the U.S. Copyright Office. The license fees and other funds so collected are distributed as royalties to members based on surveys of performances of the works in ASCAP's repertory that they wrote or published. In addition, ASCAP offers a range of special services to its members and endeavors to promote its members' interests under the U.S., foreign and international copyright law.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: As discussed above, license members' copyrighted works and promote their interests in copyright law.

FUTURE PLANNED INITIATIVES/ PROJECTS RELATING TO COPYRIGHT OR FAIR USE:
Not applicable.

MAILING ADDRESS: ASCAP
One Lincoln Plaza, New York, New York 10036

CONTACT PERSON: Joan M. McGivern, Esq.
Assistant Vice President of Legal Affairs

TELEPHONE: (212) 621-6204

FACSIMILE: (212) 787-1381

E-MAIL: Jmcgivern@ascap.com

WEBSITE: www.ascap.com

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES:
Not applicable

AMERICAN SOCIETY OF JOURNALISTS AND AUTHORS (ASJA)

DESCRIPTION: The American Society of Journalists and Authors (ASJA) is a national organization of 1100 independent nonfiction writers.

MISSION: To serve nonfiction writers' professional development, to encourage the pursuit of excellence in nonfiction writing, and to explore nonfiction writers' professional concerns with peers.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Through Contracts Watch, ASJA has taken the lead in explaining copyright and writers' rights (with a special focus on electronic rights) to writers and publishers.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: Contracts Watch will remain very active. Pat McNees (ASJA's CONFU representative) writes about fair use and copyright and teaches a Copyright Basics course; in September 1998, she will participate in a seminar on Copyright and Creativity at the University of Southern California (Annenberg Center).

MAILING ADDRESS: American Society of Journalists and Authors
1501 Broadway, Suite 302, New York, NY 10036

Pat McNees
10643 Weymouth Street, #204, Bethesda, MD 20814

CONTACT PERSONS: Alexandra Owens, Executive Director
Tel. 212-997-0947 - Fax: 212-768-7414
E-Mail: asja@compuserve.com

Pat McNees, CONFU Representative
Tel. 301-897-8557 - Fax: 301-897-8569
E-Mail: pmcnees@compuserve.com

WEBSITE: <http://www.asja.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: ASJA *Contracts Watch*. To subscribe to this electronic bulletin, send an e-mail to: <ASJA-MANAGER@silverquick.com> Subject line: Contracts Watch. Complete text: Join ASJACW-LIST Web page: <http://www.asja.org/cwpage.htm>

-McNees, Pat. "Fair Use Come the Revolution," *Authors Guild Bulletin*, pp 6-11 (Winter 1995).

-McNees, Pat. "Explanations of copyright, fair use, and CONFU," in confidential newsletter of the American Society of Journalists & Authors, 1995-97.

-McNees, Pat. Quiz on Copyright. 1996, 1998, 4 pages.

-McNees, Pat. "Fair Use and Foul: Copyright and Consulting" in "Consulting Success," Newsletter of the Association of Professional Communication Consultants, pp.1,4-5 (Spring 1998, No. 37).

AMERICAN SOCIETY OF MEDIA PHOTOGRAPHERS (ASMP)

DESCRIPTION: The American Society of Media Photographers (ASMP) is a 501(c)(6) not-for-profit trade association established in 1944 to promote and protect the interests of professional photographers whose photographs are intended for publication in the various media. ASMP has over 5,000 members spread over 39 chapters in the United States and almost 40 countries around the globe, and numbers many of the world's leading publication photographers among its ranks. Taking a leading role in educational, advocacy and other matters, ASMP is the premiere organization of its kind.

MISSION: **A.** To protect and promote the interests of professional photographers whose photographs are primarily for publication. **B.** To maintain and promote high professional standards and ethics in photography. **C.** To cultivate friendship and mutual understanding among professional photographers.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: In addition to participating actively in the CONFU process, including serving on the Steering Committee, ASMP has just completed a college-level textbook and curriculum dealing with issues including copyright.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: ASMP has just created a related foundation, the primary function of which will be the creation and presentation of educational programs. One of the main topics to be covered by that programming will be all aspects of copyright, including fair use.

MAILING ADDRESS: American Society of Media Photographers, Inc.
14 Washington Road, Suite 502
Princeton Junction, NJ 08550-1033

CONTACT PERSON: Victor S. Perlman
Managing Director and General Counsel

TELEPHONE: 609-799-8300, ext. 1207

FACSIMILE: 609-799-2233

E-MAIL: perlman@asmp.org

WEBSITE: www.asmp.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

AMERICAN SOCIETY OF PICTURE PROFESSIONALS

DESCRIPTION: Professional society bringing together the various interests and disciplines that are encompassed in the diverse professions in the picture industry; i.e. creators of pictures, agents of those creators, and buyers of pictures.

MISSION: The American Society of Picture Professionals is a forum for education, information, dialogue and interaction among professionals who share an interest in written and electronic communications that blend images, words, and ideas.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Supporters of the protection of copyright through education; co-signors of amicus brief filed by the American Society of Media Photographers on behalf of Tasini in *Tasini vs The New York Times*.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: On-going activities.

MAILING ADDRESS: American Society of Picture Professionals
2025 Pennsylvania Avenue, N.W., Suite 226
Washington, DC 20006

CONTACT PERSON: Cathy D-P Sachs

TELEPHONE: 202-955-5578

FACSIMILE: 202-955-5578

E-MAIL: aspp1@idsonline.com

WEBSITE: <http://www.aspp.com/>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

AUTHORS GUILD, INC.

DESCRIPTION: The Authors Guild is the largest organization of published book authors and freelance journalists in the United States.

MISSION: Advocate for the interests of authors in the areas of copyright, free speech and fair contracts.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: A founding organization of the Authors Registry, which provides rights payment services and author contact information to publishers and others. Continuing author education on copyright.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: Authors Guild, Inc.
330 West 42nd Street, 29th Floor
New York, NY 10036

CONTACT PERSON: Paul Aiken

TELEPHONE: 212-563-5904

FACSIMILE: 212-564-5363

E-MAIL: staff@authorsguild.org

WEBSITES: www.authorsguild.org
www.authorsregistry.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

BROADCAST MUSIC, INC. (BMI)

DESCRIPTION: BMI is a music performing rights licensing organization.

MISSION: To provide a service linking the users of music (such as broadcasters, concert promoters, etc.) and the creators and copyright owners who control the public performing rights of musical compositions.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: BMI annually sponsors and organizes several dozen programs, panels, and conferences, focusing on copyright licensing and related issues. BMI executives actively participate in hundreds of seminars, panels, and other educational forums devoted to all aspects of copyright. In addition, BMI's commitment to educating the public concerning copyright in the digital age is exemplified by the major commitment it made to the nationwide communication effort developed by the President's National Information Infrastructure Advisory Commission. As part of that project, BMI drafted and produced numerous letters, flyers and brochures which were disseminated throughout the country, such as the brochure, *National Information Infrastructure Advisory Council - How It Works*.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: BMI plans to continue involvement in the kinds of projects listed above and to continue to actively seek partnerships with other organizations such as the Recording Academy, the National Music Council, and numerous bar associations, who provide educational programs.

MAILING ADDRESS: BMI
320 West 57th Street, New York, NY 10019

CONTACT PERSON: Judith M. Saffer, Associate General Counsel

TELEPHONE: 212-830-2511

FACSIMILE: 212-397-0789

E-MAIL: jsaffer@bmi.com

WEBSITES: <http://www.bmi.com>. This website contains over 2,000 digital pages on all aspects of BMI and its business including descriptions of our licensing activities and related legal and legislative affairs. In addition, BMI is the only copyright organization to make available on the Internet its entire repertory of all their 3 million works as a searchable database. BMI also built and maintains the website for CISAC (<http://www.cisac.org>) and for the Copyright Society of the U.S.A. (<http://www.csusa.org>). These websites help keep individuals current on copyright-related issues.

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: BMI produces numerous brochures on copyright and licensing of music which are available upon request.

BUSINESS SOFTWARE ALLIANCE (BSA)

DESCRIPTION: The Business Software Alliance (BSA) promotes the continued growth of the software industry through its international public policy, education, and enforcement programs in 65 countries. BSA believes that the U.S. software industry benefits from a strong copyright law; a law based on traditions of protecting intellectual property and fair use.

MISSION: BSA strives to insure protections for creative works in order to maintain an economic incentive to innovate in the growing digital age.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: BSA has ongoing educational and public policy activities and programs concerning copyright protection and fair use.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: BSA will continue to conduct educational and public policy activities and programs concerning copyright and fair use.

MAILING ADDRESS: Business Software Alliance
1150 18th Street, NW, Suite 700
Washington, DC 20036

CONTACTS: Emery Simon
Becca Gould
Linda Bloss-Baum

TELEPHONE: 202-872-5500

FACSIMILE: 202-872-5501

E-MAIL: Linda Bloss-Baum: Lindab@bsa.org
Becca Gould: Beccag@bsa.org

WEBSITE: <http://www.bsa.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

**CENTER FOR COMPUTER ASSISTED RESEARCH IN THE
HUMANITIES (STANFORD UNIVERSITY)**

DESCRIPTION: The Center for Computer Assisted Research in the Humanities provides corpora of musical data to an international constituency and operates in-house lab for music applications. Also supports use of large corpora of texts in the humanities.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: The Center constantly examines copyright issues in relation to the development of use of encoded musical information.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: Center for Computer Assisted Research in the Humanities
Braun Music Center, Room 129
Stanford University
Stanford, CA 94305-3076

CONTACT PERSON: Eleanor Selfridge-Field
Consulting Professor

TELEPHONE: 650-725-9242

FACSIMILE: 650-725-9290

E-MAIL: esrf@ccrma.stanford.edu

WEBSITE: <http://ccrma-www.stanford.edu/CCARH>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

COLLEGE ART ASSOCIATION (CAA)

DESCRIPTION: As the foremost professional organization for visual artists, art historians, curators, and arts administrators, College Art Association (CAA) serves a membership of 14,000 individuals and 2,000 institutions in the United States and internationally.

MISSION: CAA's annual conference and scholarly publications facilitate the exchange of ideas and opportunities; our job placement and mentoring services help members establish and further their careers. Since its establishment in 1911, CAA has also been an ardent, effective advocate on behalf of the arts and humanities.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: A series of Town Meetings which took place in: New York, February 16, 1997; Indianapolis, April 4-5, 1997; Atlanta, April 27, 1997; Portland, September, 26-27, 1997; and Toronto, February 26, 1998. Also, a member of the Digital Future Coalition, and various advocacy work.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: College Art Association
275 Seventh Avenue, 18th Floor
New York, NY 10001

CONTACTS: Susan Ball, Executive Director
Katie Hollander, Manager of Governance and Advocacy
Elaine Koss, Director of Publications

TELEPHONE: 212-671-1051

FACSIMILE: 212-627-2381

E-MAIL: nyoffice@collegeart.org

WEBSITE: www.collegeart.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

CONSORTIUM OF COLLEGE AND UNIVERSITY MEDIA CENTERS (CCUMC)

DESCRIPTION: Founded in 1971 as the Consortium of University Film Centers (CUFC), the organization became the Consortium of College and University Media Centers (CCUMC) in 1988. The CCUMC is a dynamic organization whose mission is to improve the process of learning and teaching through the effective use of instructional media/technology in higher education. The over 400 members represent all sizes of institutions in higher education that provide instructional media/technology-related support services, as well as companies providing related products. A strength of the consortium is the willingness of its members to openly share ideas and information both informally through email (CCUMC-L) and phone calls and formally through presentations and Interest Group sessions at conferences. CCUMC sponsors an annual fall conference that includes an on-site visit to a member institution's media center and a number of informative, stimulating presentations by professionals managing and using instructional technologies. Topics regularly discussed at CCUMC conferences include: new learning technologies, copyright and intellectual property issues, multimedia and hypermedia, distance learning, media collection management, applied media research, the changing role of media, diversity issues, budget management, instructional facilities planning and maintenance, instructional media production and professional ethics. Current Interest Groups include Emerging Technologies, Management/Administration, Campus Services, and Collection Development and Management.

MISSION: The mission of the consortium is to improve learning and teaching through the effective use of media/instructional technology services in higher education. Specifically, the consortium shall: advocate the accessibility and effective use of educational media; provide leadership in the development of standards for the effective implementation and management of instructional technology in higher education; foster cooperative efforts among colleges and universities and other institutions, agencies, foundations, and organizations in the solution of mutual problems; gather and disseminate information about educational, professional, and operational issues, including statistics important to the profession; develop and provide programs and services that will enable members to most effectively support the missions of their institutions; provide professional development opportunities for members, inspire, generate, and coordinate research and scholarship that advances the mission of the consortium.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: CCUMC has always been concerned about copyright issues, from both users and rights holders points of view. In 1985-87 a copyright Task Force was charged with determining the most critical questions facing the membership with regard to copyright. At that time the questions of concern included satellite reception, home use, copyright infringement by users of consortium members materials and by consortium members themselves, and the use of copyrighted materials with the rapidly evolving interactive media technologies. In 1992-94 another Copyright Task Force was charged to develop a document on fair use that would be acceptable both to media professionals and to the commercial producers/distributors. There were several outcomes of this task force, including: 1) adopting A Copyright Code of Conduct for Members of the CCUMC; 2) sponsoring, with the Agency for Instructional Technology, the Educational Fair Access and the New Media National Conference, held at American University, June 15-17, 1994; and 3) establishing the Government Regulation and Public Policy Committee, whose charges included continuing in a leadership role with both the working committee that evolved from the Educational Fair Access and the New Media National Conference and the Conference on Fair Use (CONFU) to develop a set of fair use guidelines for educational multimedia; functioning as an

educational resource for the membership regarding regulations and policies affecting educational technology; recommending and undertaking initiatives designed to implement standards which advocate the accessibility and effective uses of information technology in higher education.

In an effort to update instructional media professions, educators, and students on the educational multimedia guidelines negotiations, CCUMC partnered with the PBS Adult Learning Satellite Service and produced two live teleconferences on copyright, fair use, and multimedia. The first, *Multimedia Fair Use Guidelines: The Educational Gateway to the Information Age*, discussed the *Fair Use Doctrine* and its relevance to the educational community, presented details of the draft fair use guidelines, and employed a series of vignettes to describe issues around multimedia fair use. The second teleconference, *Fair Use Guidelines for Educational Multimedia: The Final Document and Its Implementation*, covered the content of the new guidelines, their endorsement and Congressional validation process, and their implementation at the school and college level, including faculty and staff training. Videotapes of both teleconferences can be purchased from the CCUMC Executive Office. Finally, CCUMC has developed a Copyright Code of Conduct for Members of the Consortium of College and University Media Centers. The complete text of the CCUMC Copyright Code of Conduct appears on the CCUMC website.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: In 1997, the CCUMC leadership charged a task force to develop and conduct a dissemination program to assist with the implementation of "Fair Use Guidelines for Educational Multimedia." The first outcome of this task force's efforts will be creation of an informational booklet, to be published Fall 1998, to assist students and educators in implementing the Fair Use Guidelines for Educational Multimedia. For additional information about this booklet, contact the CCUMC Executive Office.

MAILING ADDRESS: CCUMC Executive Office
Iowa State University, 121 Pearson Hall - MRC
Ames, IA 50011-2203

CONTACT PERSON: Don Rieck, Executive Director

TELEPHONE: 515-294-1811

FACSIMILE: 515-294-8089

E-MAIL: ccumc@ccumc.org

WEBSITE: CCUMC Site at Indiana University: www.indiana.edu/~ccumc/

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: For additional information on CCUMC publications, contact the CCUMC Executive Office.

- The Leader*, the consortium's newsletter, is published quarterly.
- College & University Media Review*, the consortium's professional journal, is published twice a year.
- Conference Proceedings* are published for each conference.
- CCUMC Annual Report*, distributed to the CCUMC membership in January of each year.
- CCUMC Membership Directory* is published annually in January.

COPYRIGHT CLEARANCE CENTER, INC. (CCC)

DESCRIPTION: Copyright Clearance Center, Inc. is a not-for-profit organization founded in 1978 to enable the efficient exchange of rights and royalties between creators/producers and users of copyrighted works. CCC's Board of Directors is comprised of publishers, authors, and photographers, as well as corporate and academic users of copyrighted material. Initially concerned with photocopy licensing, CCC has in the last five years broadened its portfolio to address multiple types of transactions for multiple types of rights in digital as well as reprography licensing. Moreover, CCC has entered the arena of on-line licensing and delivery of digital photography through its *Mira* program.

MISSION: Copyright Clearance Center is a powerful resource for owners and users of copyrighted works, providing a broad range of unique solutions that bring these two groups together across a multitude of markets and a variety of media. By closely observing market trends, following legislation and legal decisions, and drawing from twenty years of experience, CCC's mission is continuous delivery of effective copyright solutions as the needs of rightsholders and users continue to evolve.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Throughout its 20-year history and with each new initiative, CCC has developed licensing systems that respect the principles of fair use, and accommodate the fact of fair use, in practical and efficient ways.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: As described above, all CCC - programs past, present, and future - accommodate fair use and respect the balance between the needs of rightsholders and users as provided in the Copyright Law.

MAILING ADDRESS: Copyright Clearance Center, Inc.
222 Rosewood Drive, Danvers, MA 01923

CONTACT PERSON: Daniel Gervais
Acting Director, Rightsholder Relations

TELEPHONE: 978-750-8400

FACSIMILE: 978-750-4343

E-MAIL: dgervais@copyright.com

WEBSITE: <http://www.copyright.com>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: For complete information and list of publications, see the CCC website at:
<http://www.copyright.com>

COPYRIGHT MANAGEMENT CENTER OF INDIANA UNIVERSITY

DESCRIPTION: Indiana University (IU) is a state-owned and funded nonprofit educational institution and research university.

MISSION: The IU mission is advancement and dissemination of knowledge.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS:

a) establishment of a Copyright Management Center to address fair use and other copyright issues on all eight campuses of Indiana University; b) establishment of a copyright information website (<http://www.iupui.edu/it/copyinfo>); c) publication and distribution of copyright information materials, including the brochure entitled, *Fair Use For Teaching & Research: Getting Started and Moving Ahead*; d) creation and implementation of a new "Policy on Fair Use of Copyrighted Works for Education and Research" for Indiana University; e) conducting numerous information sessions and symposia throughout Indiana University and throughout the country; f) launching during Spring 1998 an Online Copyright Tutorial intended to educate readers about the fundamentals of copyright and fair use and reaching more than 2,200 subscribers at Indiana University and around the world.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: a) conducting a series of workshops on all Indiana University campuses; b) creating a network of copyright liaisons at all Indiana University campuses for purposes of sharing information and responding to copyright issues; c) revision and update of the Copyright Management Center website and other information materials; d) revision and update of the Online Copyright Tutorial for offering during Fall 1998 (for subscription information, please visit the website (<http://iupui.edu/it/copyinfo>); e) proposing the establishment of a copyright permissions office at Indiana University to secure permissions for uses of protected works when necessary.

MAILING ADDRESS: Copyright Management Center
IUPUI University Library
755 West Michigan Street, Indianapolis, IN 46202-5195

CONTACT PERSON: Kenneth D. Crews, J.D., Ph.D.
Director, Copyright Management Center

TELEPHONE: 317-274-4400

FACSIMILE: 317-278-3301

E-MAIL: copyinfo@indiana.edu or copyinfo@iupui.edu

WEBSITE: <http://www.iupui.edu/it/copyinfo>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: Various publications and brochures are available at the following website:
<http://www.iupui.edu/it/copyinfo>

COUNCIL OF LITERARY MAGAZINES AND PRESSES (CLMP)

DESCRIPTION: The Council of Literary Magazines and Presses (CLMP) is a national service organization dedicated exclusively to supporting and promoting independent literary publishing in the United States. CLMP's programs and services are designed to benefit its membership and the greater literary publishing community. These benefits include informational publications (including our annual Directory of Literary Magazines, Marketing Monographs and our newsletter, CLMPages), an annual seed grant program for new literary publishers, an advertising brokerage program, marketing workshops and access to the Literary Network. CLMP's diverse membership consists of approximately 300 literary magazines and book publishers representing nearly every state as well as a broad spectrum of American life and culture.

MISSION: Through its programs, services and initiatives, CLMP strives to ensure a vital and diverse literary culture in the United States and to promote the literary field's accomplishments to the media, funders and the public.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None at this time.

MAILING ADDRESS: CLMP
154 Christopher Street, Suite 3C
New York, NY 10014

CONTACT PERSON: Celia O'Donnell, Executive Director

TELEPHONE: 212-741-9110

FACSIMILE: 212-741-9112

E-MAIL: CLMP NYC@aol.com

WEBSITE: None at this time

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: As a membership benefit, new member publishers may receive, upon request, a Technical Resource sheet on obtaining Copyright, ISSN or ISBN numbers. This is a one-page general information sheet that provides a brief description of the registration process, the necessary forms and who to contact in order to obtain them.

GETTY INFORMATION INSTITUTE

DESCRIPTION: The Getty Information Institute is part of the J. Paul Getty Trust, a private operating foundation dedicated to the visual arts and the humanities. The Getty offers people opportunities to more fully understand, enjoy, value, and preserve the world's artistic and cultural heritage. The Information Institute enhances worldwide access to art and humanities information for the purpose of research and education by means of computer technology.

MISSION: The Information Institute works to improve the presence, quality and accessibility of cultural heritage information through global networks for research, education and enjoyment. The Institute envisions a future in which high-quality information about the world's cultural heritage is readily available and highly valued. That value is expressed in government policies, public and private investments, and the prominence of the arts and humanities in society's consciousness. In this future, museums and educational and cultural institutions share this vision, as well as a commitment to work together to achieve it. Central to the Information Institute's strategic plan is the "virtual database"—the capability electronic networks offer for making geographically dispersed information searchable as if it were all in a single collection or repository.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Member of G7 Copyright and Fair Use Working Group, and Museum Educational Site Licensing (MESL) project. Publishing two final reports: *Delivering Digital Images: Cultural Heritage Resources for Education*, and *Images Online: Perspectives on the MESL Project* (Los Angeles: J.Paul Getty Trust, 1998). Publishing *Administering Intellectual Property in the Electronic Age: A Study of Options for Cultural and Educational Organizations* (a study of options in addition to the MESL project's investigation of site licensing and collective management of rights). Hosted meeting of the World Intellectual Property Organization on cultural object protection.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: Partnership with American Association of Museums to publish *A Copyright and Trademark Primer for Museums*, funded by the Pew Charitable Trusts.

MAILING ADDRESS: Getty Information Institute
1200 Getty Center Drive, Suite 300, Los Angeles, CA 90049

CONTACTS: Kathleen McDonnell or Jane Sledge
Tel. 310-440-6576 Tel. 310-440-6356
Fax 310-440-7715 Fax 310-440-7715
E-Mail: kmcdonnell@getty.edu E-Mail: jsledge@getty.edu

WEBSITES: Getty Information Institute: <http://www.gii.getty.edu>
Museum Educational Site Licensing Project: <http://www.gii.getty.edu/mesl>
National Initiative for Networked Cultural Heritage: <http://www-ninch.cni.org/>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

GRAPHIC ARTISTS GUILD

DESCRIPTION: The Graphic Artists Guild is a national union of over 2,700 members that represents creators at all levels of skill and expertise, who produce graphic art intended for presentation as originals or reproductions.

MISSION: The Graphic Artists Guild promotes and protects the economic interests of its members. It is committed to improving conditions for all creators of graphic art and raising standards for the entire industry.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Publishes a regularly updated *Handbook: Pricing & Ethical Guidelines*, now in its 9th edition, that deals extensively with copyright issues; publish a bi-monthly newsletter, the Guild News, which regularly carries news of developments in the area of copyright; publish an electronic newsletter, Contract Monitor, which analyzes industry contracts and educates artists about copyright provisions; conduct an ongoing copyright awareness called "Ask First," directed at the practice of "comping," or "swiping" images; monitor copyright legislation and developments and lobby on behalf of our members; educate and mobilize our members to affect copyright legislation;

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: The Guild is currently working with other creators' organizations to form a new Joint Ethics Committee and develop a revised Code of Fair Practice.

MAILING ADDRESS: Graphic Artists Guild
90 John Street, Suite 403
New York, NY 10038

CONTACT PERSON: Paul Basista, Executive Director

TELEPHONE: 212-791-3400

FACSIMILE: 212-791-0333

E-MAIL: pbasista@nac.net

WEBSITE: www.gag.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: *Handbook: Pricing & Ethical Guidelines*, 9th Edition

INDIANA PARTNERSHIP FOR STATEWIDE EDUCATION COPYRIGHT COMMITTEE

DESCRIPTION: Consists of members from Ball State University, Indiana State University, Indiana University, Indiana University-Purdue University at Indianapolis, Ivy Tech State College, University of Southern Indiana, and Vincennes University. Updates, recommends, represents Indiana's distance education copyright concerns vis-a-vis these seven state colleges and universities and a consortium of the Indiana independent colleges and universities.

MISSION: The purpose of the IPSE Copyright Committee is to advise the Indiana Partnership for Statewide Education and its member institutions on copyright issues as they relate to distance education.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Meetings with officials and staff at universities throughout the State of Indiana relating to fair use in distance education. Development of a web page with pertinent information relating to copyright in distance education (<http://www.library.bsu.edu/internal/copyright/>). Meetings with U.S. Congressmen from Indiana in regards to distance learning copyright issues.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: Sharing of policy developments on relevant copyright issues with member institutions. Establishing a system of liaisons for copyright information sharing throughout the State of Indiana.

MAILING ADDRESS: IHETS
957 West Michigan Street, Indianapolis, IN 46202-5206

CONTACT PERSON: Dr. Fritz Dolak
Chair, IPSE Copyright Committee

TELEPHONE: 765-285-8032

FACSIMILE: 765-285-2644

E-MAIL: fdolak@wp.bsu.edu

WEBSITES: <http://www.IHETS.org/>
<http://www.ihets.org/ihets/committees/administration/copyright.html>
<http://www.library.bsu.edu/internal/copyright/>
[http://www.library.bsu.edu/\(c\)/](http://www.library.bsu.edu/(c)/)

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

INFORMATION INDUSTRY ASSOCIATION (IIA)

DESCRIPTION: The Information Industry Association (IIA) is a trade association of companies that produce and distribute information products and services worldwide. The Association's 550 members include content producers and other companies that create, manage and distribute information.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None

MAILING ADDRESS: Information Industry Association
1625 Massachusetts Avenue, NW, Suite 700
Washington, DC 20036

CONTACT PERSON: Paul A. De Giusti

TELEPHONE: 202-986-0280

FACSIMILE: 202-638-4403

E-MAIL: degiusti@infoindustry.org

WEBSITE: www.iia.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

INSTRUCTIONAL TELECOMMUNICATIONS COUNCIL (ITC)

DESCRIPTION: The Instructional Telecommunications Council (ITC) provides leadership, information and resources to expand access to, and enhance learning, through the effective use of technology. Established in 1977, as an affiliated council of the American Association of Community Colleges, ITC represents over 500 institutions in the United States and Canada.

ITC Membership Benefits Include: *ITC News & List Serv:* ITC's monthly newsletter keeps members up-to-date with what's happening in distance education. ITC also relays regular timely bulletins through its list serv, including information about upcoming grant deadlines, distance learning articles, and other resources.

Legislative Advocacy/Updates: An advocate for distance learning, ITC works with the American Association of Community Colleges to inform legislators about the concerns of distance educators. ITC also serves as a legislative liaison to inform members about legislation that could affect their distance learning programs.

National and Regional Meetings: ITC sponsors national and regional meetings to provide opportunities to meet colleagues in the field and inform educators about the latest distance learning practices and technologies. These include the annual Telelearning Conference, professional development meetings, and videoconferences.

ITC Publications and Research: ITC supports distance learning research. Recent publications include: *Faculty Compensation and Support Issues in Distance Education*, 1998; *New Connections: A Guide to Distance Education—Second Edition*, 1998; *New Connections: A College President's Guide to Distance Education*, 1994; *Federal Disability Law and Distance Learning*, 1994.

MISSION: See above.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None.

MAILING ADDRESS: Instructional Telecommunications Council
1 Dupont Circle, NW, Suite 410, Washington, DC 20036-1176

CONTACT PERSON: Christine Dalziel

TELEPHONE: 202-293-3110

FACSIMILE: 202-833-2467

E-MAIL: Cdalziel@aacc.nche.edu

WEBSITE: <http://www.sinclair.edu.comunity/itc/>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: ITC includes articles about copyright and distance learning in its monthly newsletter, *ITC*, and posts information on copyright at <http://www.sinclair.edu/community/itc/>.

INTERNATIONAL ASSOCIATION OF SCIENTIFIC, TECHNICAL & MEDICAL PUBLISHERS (STM)

DESCRIPTION: The International Association of Scientific, Technical and Medical Publishers (STM) currently has 106 paying members representing approximately 240 publishing imprints in 26 countries. These make up for an estimated 80% of the annual output of scientific research information. STM includes large and small publishing houses, secondary publishers and learned societies. Although a global association, STM's emphasis in its activities is placed in Europe and the United States.

MISSION: 1. To assist publishers and their authors in their activities in disseminating the results of research in the fields of science, technology and medicine; 2. To assist national and international organizations and communications industries in the electronic environment, who are concerned with improving the dissemination, storage and retrieval of scientific, technical and medical information; 3. To carry out the foregoing work of the Association in conjunction with the International Publishers Association (IPA) and with the national publishers associations and such other governmental and professional bodies, international and national, who may be concerned with these tasks.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Currently STM is involved in ongoing dialogues with the library community on matters concerning copyright, archiving and access of information.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: Continue our dialogues with library and user communities present the STM position in the digital environment.

MAILING ADDRESS: STM
Muurhuizen 165
3811 EG Amersfoort
The Netherlands

CONTACT PERSON: Mr. Lex Lefebvre

TELEPHONE: +31 33 465 6060

FACSIMILE: +31 33 465 6538

E-MAIL: lefebvre@stm.nl

WEBSITE: www.stm.springer.de (until October 1998)

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE

ISSUES: STM Newsletter; Special Reports; Statement made by STM Secretary General to Conference on Fair Use (November 1995).

MEDICAL LIBRARY ASSOCIATION (MLA)

DESCRIPTION: The Medical Library Association is a professional organization of more than 1,200 institutions and 3,800 individual members in the health sciences information field. MLA members serve society by developing new health information delivery systems, fostering educational and research programs for health sciences information professionals, and encouraging an enhanced public awareness of health care issues.

MISSION: The Medical Library Association fosters excellence in the professional achievement and leadership of health sciences library and information professionals to enhance the quality of health care, education, and research.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: As part of its program to address copyright and intellectual property issues, the Medical Library Association has developed a series of question and answer fact sheets on the following issues: interlibrary loan, general fair use, print reserve, copyright liability, and copyright and the web. These documents can be found on the Medical Library Association's web site at <http://www.mlanet.org/government/intprop.html>. The MLA also has published position statements on *The Copyright Law* and *Fair Use and Lending Software*.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: The development of documents which address best practices guidelines are being discussed.

MAILING ADDRESS: Medical Library Association
6 North Michigan Avenue, Suite 300
Chicago, IL 60602

CONTACT PERSON: Carla J. Funk, Executive Director
Mary M. Langman, Manager, Information Issues & Policy

TELEPHONE: 312-419-9094

FACSIMILE: 312-419-8950

E-MAIL: funk@mlahq.org or langman@mlahq.org

WEBSITE: <http://www.mlanet.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: The MLA has published position statements on *The Copyright Law* and *Fair Use and Lending Software*.

MOTION PICTURE ASSOCIATION OF AMERICA (MPAA)

DESCRIPTION: MPAA represents seven leading U.S. producers and distributors of motion pictures and television programming. Its members include Buena Vista Pictures Distribution, Inc.; Metro-Goldwyn-Mayer Inc.; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal City Studios, Inc.; and Warner Bros..

MISSION: MPAA's major functions include seeking to preserve and protect the rights of copyright owners; acting as spokesman and advocate for the major producers and distributors of motion pictures, television programs and home videos; fighting censorship and restrictive attacks on First Amendment rights; directing an antipiracy program to protect U.S. films; providing guidance to parents of young children on the suitability of movies through its voluntary film rating system.

MAILING ADDRESS: Motion Picture Association of America
1600 Eye Street, NW
Washington, DC 20006

CONTACT PERSON: Fritz Attaway
General Counsel

TELEPHONE: 202-293-1966

FACSIMILE: 202-293-7674

E-MAIL: fattaway@mpaa.org

WEBSITE: www.mpaa.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

MUSIC LIBRARY ASSOCIATION

DESCRIPTION: The Music Library Association (MLA) is the professional organization in the United States devoted to music librarianship and to all aspects of music materials in libraries.

MISSION: To promote the establishment, growth, and use of music libraries; to encourage the collection of music and musical literature in libraries; to further studies in musical bibliography; to increase efficiency in music library service and administration; and to promote the profession of music librarianship.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: The MLA Legislation Committee is charged with providing the MLA membership with current information regarding the status of legislation and other legal matters likely to affect music libraries (including matters pertaining to copyright). The committee may prepare presentations and position papers to represent the Association's views to government agencies. The Legislation Committee authors the MLA Copyright Website at: <http://www.musiclibraryassoc.org/Copyright/copyhome.htm>.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None at this time.

MAILING ADDRESS: Music Library Association
P.O. Box 487
Canton, MA 02021

CONTACT PERSON: Lenore Coral, Chair, MLA Legislation Committee
Music Library, Lincoln Hall
Cornell University
Ithaca, NY 14853-4101

TELEPHONE: 607-255-7126

FACSIMILE: 607-254-2877

E-MAIL: LFC1@cornell.edu

WEBSITE: <http://www.musiclibraryassoc.org/>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: <http://www.musiclibraryassoc.org/Copyright/copyhome.htm>.

MUSIC TEACHERS NATIONAL ASSOCIATION

DESCRIPTION: The Music Teachers National Association (MTNA) has existed to support music teaching and the art of music since 1876, when Theodore Presser and sixty-two colleagues founded the oldest American professional music organization. MTNA has grown since that time to include over 24,000 independent and collegiate music teachers in state and local affiliates -- all committed to furthering the art of the music through programs that encourage and support music teaching, performance, composition, and research.

MISSION: The MTNA's diverse membership comprises a nationally-recognized, large and growing professional network of active, involved music teachers, performers, and scholars in all fields of music teaching. These committed musicians are strong advocates of the benefits of participation in music as vital to a fulfilling life. The MTNA works within its local, state, division, and national organizations to serve society by setting standards for excellence in music teaching. MTNA members are fully qualified music teachers. The association informs the public of the professional activities of association members and their students. The MTNA serves its membership by providing opportunities for continuing professional growth, by providing an information network, by clarifying and promoting the image of the profession and by serving in an advocacy role on issues of concern to the music teaching profession.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: Music Teachers National Association
The Carew Tower
441 Vine Street
Cincinnati, OH 45202

CONTACTS: Dr. Gary L. Ingle, Executive Director
Sue McVey, Assistant Executive Director

TELEPHONE: 513-421-1420

FACSIMILE: 513-421-2503

E-MAIL: Gingle@MTNA.org

WEBSITE: <http://www.MTNA.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES (NASULGC)

DESCRIPTION: With roots going back to 1887, NASULGC is the nation's oldest higher education association. A voluntary, non-profit association of public universities, land-grant institutions and many state university systems, the National Association of State Universities and Land-Grant Colleges has member campuses in all 50 states and the U.S. territories. The association is governed by a chair and board of directors elected from the member colleges, universities and university systems. As of April 1998, the association's membership included 197 institutions, including 75 U.S. land-grant institutions of which 17 are the historically black institutions.

MISSION: The association's overriding mission is to support high-quality public higher education and its member institutions as they perform their traditional teaching, research and public service roles. NASULGC provides a forum for the discussion and development of policies affecting higher education and the public interest.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: NASULGC is increasing awareness among our members concerning copyright, intellectual property and fair use issues by offering informative sessions at NASULGC meetings, legislative updates for our members, and articles in our membership newsletter. An alliance of the major higher education associations has recently produced a publication outlining positions on several information technology issues including copyright and intellectual property.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: NASULGC plans to continue to increase awareness in this area through offering sessions at NASULGC meetings, legislative updates for our members, articles in our membership newsletter.

MAILING ADDRESS: NASULGC
One Dupont Circle, Suite 710
Washington, DC 20036

CONTACT PERSON: Laila Van Eyck

TELEPHONE: 202-778-0818

FACSIMILE: 202-296-6456

E-MAIL: Lvaneyck@nasulgc.org

WEBSITE: www.nasulgc.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

NATIONAL COORDINATING COMMITTEE FOR THE PROMOTION OF HISTORY

DESCRIPTION: The National Coordinating Committee for the Promotion of History (NCCPH) is the central advocacy office in Washington for the historical and archival professions.

MISSION: To monitor federal policy that affects historical research, teaching, and programing and to coordiante the professions' advocacy efforts.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Provides regular updates to keep the professions informed of bills, hearings, mark-ups, and votes.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: A regular speaker at historical meetings on copyright and fair use.

MAILING ADDRESS: NCCPH
400 A Street, S.E.
Washington, DC 20003

CONTACT PERSON: Page Putnam Miller

TELEPHONE: 202-544-2422

FACSIMILE: 202-544-8307

E-MAIL: pagem@capaccess.org

WEBSITE: <http://h-net.msu.edu/~ncc>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

NATIONAL COUNCIL OF TEACHERS OF MATHEMATICS

DESCRIPTION: Founded in 1920, the National Council of Teachers of Mathematics (NCTM) is dedicated to improving mathematics teaching and learning from preschool through postsecondary school. With more than 110,000 members and 260 Affiliated Groups throughout the United States and Canada, NCTM is the largest nonprofit professional association of mathematics educators in the world, offering vision, leadership, and avenues of communication for mathematics educators at all levels. NCTM provides professional development opportunities through annual, regional, and leadership conferences and publishes journals, books, videos, and software.

MISSION: The mission of the National Council of Teachers of Mathematics is to provide vision and leadership in improving the teaching and learning of mathematics so that every student is ensured an equitable Standards-based mathematics education and every teacher of mathematics is ensured the opportunity to grow professionally.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: National Council of Teachers of Mathematics
1906 Association Drive
Reston, VA 20191-1593

CONTACT PERSON: Jean Carpenter
Manager, Publications Services and Permissions

TELEPHONE: 703-620-9840

FACSIMILE: 703-476-2970

E-MAIL: jcarpenter@nctm.org

WEBSITE: www.nctm.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: NCTM's permissions policy document is published on NCTM's Web site. Upcoming article in NCTM's News Bulletin about CONFU process and its results, along with a description of our participation.

NATIONAL INITIATIVE FOR A NETWORKED CULTURAL HERITAGE (NINCH)

DESCRIPTION: The National Initiative for a Networked Cultural Heritage (NINCH) is a diverse coalition of 68 educational institutions and cultural organizations representing the arts, the humanities, archives, libraries, museums and others dedicated to ensuring the fullest possible participation of all parts of the cultural community in the digital environment.

MISSION: NINCH's mission is to advocate for the inclusion of the cultural sector in all policy deliberations on the future of the information infrastructure and to educate policymakers, coalition members and the general public about the critical importance of translating the vision of a connected, distributed and accessible collection of cultural knowledge into a working reality.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: NINCH provides Web Page Resources; and was a co-organizer of a 1997-98 and 1999 series of community-wide Town Meetings on Copyright and Fair Use.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: 1999 Series of Town meetings (see Volume II. p.)

MAILING ADDRESS:	NINCH 21 Dupont Circle, NW Washington, DC 20036
CONTACT PERSON:	Dr. David L. Green
TELEPHONE:	202-296-5346
FACSIMILE:	202-872-0886
E-MAIL:	david@ninch.org
WEBSITE:	http://www-ninch.cni.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: Fair Use Education Webpage: <http://www-ninch.cni.org/ISSUES/COPYRIGHT.html>

NATIONAL LIBRARY OF MEDICINE

DESCRIPTION: The National Library of Medicine (NLM), on the campus of the National Institutes of Health in Bethesda, Maryland, is the world's largest medical library. The Library collects materials and offers services in all areas of biomedicine and health care, as well as works on biomedical aspects of technology, the humanities, and the physical, life, and social sciences. The collections stand at 5 million items--books, journals, technical reports, manuscripts, microfilms, photographs and images. NLM creates and provides access nearly some 40 databases, including MEDLINE. Through the Internet and World Wide Web, search services are now available around the world without charge. Research and Development is carried out by the Lister Hill National Center for Biomedical Communications (LHNCBC) and the National Center for Biotechnology Information (NCBI). NLM is a national resource for all U.S. health science libraries through a National Network of Libraries of Medicine.

MISSION: The National Library of Medicine collects, organizes, and disseminates the biomedical literature of the world in order to advance the medical and related sciences and to improve the public health. The Library serves as a national information resource for research, health care, the education of health professionals, and service activities of Federal and private agencies, organizations, institutions, and individuals.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: No specific programs. NLM fully complies with the copyright law in all of its programs, including its national interlibrary loan services.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: National Library of Medicine
8600 Rockville Pike
Bethesda, MD 20894

CONTACT PERSON: Eve-Marie Lacroix

TELEPHONE: 301-496-5501

FACSIMILE: 301-402-1384

E-MAIL: lacroix@nlm.nih.gov

WEBSITE: <http://www.nlm.nih.gov/>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

NATIONAL PUBLIC RADIO (NPR)

DESCRIPTION: National Public Radio (NPR) is a non-profit corporation.

MISSION: NPR's mission is to provide non-commercial news and cultural radio programming.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: Not applicable.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: Not applicable.

MAILING ADDRESS: National Public Radio
635 Massachusetts Avenue, N.W.
Washington, DC 20001-3753

CONTACT PERSON: Denise Leary
Deputy General Counsel
Office of General Counsel

TELEPHONE: 202-414-2049

FACSIMILE: 202-414-3021

E-MAIL: dleary@npr.org

WEBSITE: <http://www.npr.org>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

NATIONAL SCIENCE FOUNDATION

DESCRIPTION: The National Science Foundation (NSF) is an independent agency of the United States government responsible for promoting science and engineering through programs that invest over \$3.3 billion per year.

MISSION: To promote the progress of science; to advance the national health, prosperity, and welfare, and to secure the national defense.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: NSF provides support for the United States National Committee (USNC) for Committee on Data for Science and Technology (CODATA).

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: NSF will continue funding of CODATA.

MAILING ADDRESS: National Science Foundation
4201 Wilson Boulevard
Arlington, VA 22203

CONTACT PERSON: Dr. Carole Ganz-Brown

TELEPHONE: 703-306-1709

FACSIMILE: 703-306-0474

E-MAIL: cganz@nsf.gov

WEBSITE: <http://www.nsf.gov/>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

OhioLINK

DESCRIPTION: The Ohio Library and Information Network, OhioLINK, is a consortium of Ohio's college and university libraries and the State Library of Ohio. Serving more than 500,000 students, faculty, and staff at 57 institutions, OhioLINK offers access to more than 24 million library items statewide, and in January 1999, 18 new private colleges will join. OhioLINK also provides access to 66 research databases, including a variety of full-text resources. OhioLINK offers user-initiated online borrowing through its statewide central catalog. Users have the ability to electronically request items while searching the OhioLINK central catalog. It also provides a delivery service among member institutions to speed the exchange of library items.

To date, the OhioLINK central catalog contains almost 7 million master records from its 57 institutions, encompassing a spectrum of library material including law, medical and special collections. In addition to the central catalog, users can access electronic research databases. Sixty-six research databases covering a variety of disciplines are at the users' fingertips. Many of the databases are citation indexes. They cover many academic areas at varying levels of detail. In many cases, the user can find out which OhioLINK members possess copies of the cited journal. OhioLINK's full-text resources include online encyclopædias, dictionaries, literature, and journal articles. OhioLINK serves faculty, students, staff and other researchers at member institutions via campus library systems, campus networks, and the Internet. The system provides access to more than 4,500 simultaneous users at 104 locations, serving more than a half million patrons. The OhioLINK central catalog also is available to outside users through the Internet. However, access to the research databases is restricted to OhioLINK member users (valid patrons at OhioLINK member institutions). OhioLINK's membership includes 17 public universities, 23 community/technical colleges, 16 private colleges and the State Library of Ohio. OhioLINK, the latest cooperative venture of university libraries and the Ohio Board of Regents, grew out of a 1987 recommendation by the board's library committee that "the state of Ohio implement, as expeditiously as possible, a statewide electronic catalog system." In response to this recommendation, the board established a steering committee representing librarians, faculty, administrators and computer systems managers from campuses throughout Ohio. After meetings, public hearings, and conferences, the committee prepared and distributed a planning paper (November 1988); a Request for Information (February 1989); and a Request for Proposal (August 1989) to initiate a statewide electronic system.

In 1990, OhioLINK selected Innovative Interfaces, Inc. to develop the unique software system to create the OhioLINK central catalog and selected Digital Equipment Corporation for the computer hardware base. OhioLINK licensed four databases from University Microfilms International, UMI, for citations to millions of business, newspaper and periodical articles and to academic dissertations. These elements formed the foundation of the growing OhioLINK system of services. In 1992, six universities installed OhioLINK systems and began the ongoing process of building the central catalog. In February 1996, OhioLINK began offering services through the World Wide Web. Today, OhioLINK's integrated local and central catalogs, an online borrowing system, research databases, and document delivery serve 57 institutions. OhioLINK is part of Ohio's ongoing tradition in pioneering library automation. The Ohio State University and others in Ohio began integrating campus library systems at an early date. In the 1960s, state funds supported the development of OCLC, then called the Ohio College Library Center. OCLC has since grown into an international organization with a database of 30 million entries representing materials held in more than 10,000 libraries. The private sector in Ohio also has been actively involved in library automation. Organizations such as LEXIS-NEXIS, OHIONET, Predicasts and Chemical Abstract Services continue to develop and provide new products and services to the

nation's libraries. OhioLINK is working with many of these organizations to expand the services it provides to users.

MAILING ADDRESS: OHIOlink
2455 North Star Road, Suite 300
Columbus, OH 43221

CONTACT PERSON: Tom Sanville, Executive Director

TELEPHONE: 614-728-3600

FACSIMILE: 614-728-3610

E-MAIL: tom@ohiolink.edu

WEBSITE: <http://www.ohiolink.edu>

**PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE
ISSUES:** None.

RECORDING INDUSTRY ASSOCIATION OF AMERICA (RIAA)

DESCRIPTION: The Recording Industry Association of America (RIAA) is the trade association for record companies who manufacture or distribute more than ninety percent of all sound recordings produced and sold in the United States.

MISSION: The mission of the RIAA is to protect and defend artistic freedom; promote strong intellectual property protection and effective enforcement nationally and internationally; combat record piracy; expand market access opportunities world wide; meet the challenges of technology; facilitate the development of voluntary industry standards; and foster awareness of industry issues and products. The RIAA also administers the Gold, Platinum, and Multi-Platinum Awards Program.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: Recording Industry Association of America
1330 Connecticut Avenue, NW, Suite 300
Washington, DC 20036

CONTACT PERSON: Steve Marks, Esq.
Vice President and Deputy General Counsel

TELEPHONE: 202-775-0101

FACSIMILE: 202-775-7253

E-MAIL: Smarks@riaa.com

WEBSITE: <http://www.riaa.com>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

SMITHSONIAN INSTITUTION

DESCRIPTION: The Smithsonian Institution is an independent trust instrumentality of the United States established by Congress pursuant to 20 U.S.C. § 41 et seq., holding some 140 million artifacts and specimens in its trust, housed in its sixteen museums and galleries and the National Zoo. The Smithsonian also is a center for research dedicated to public education, national service, and scholarship in the arts, sciences, and history.

MISSION: The "increase and diffusion of knowledge."

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: *Copyright Corner*, an Intranet reference site for Smithsonian employees, adapted from *Copyright Corner*, periodic column written by Smithsonian Office of General Counsel for Smithsonian *Education Update*, publication of Smithsonian Office of Education, August 1994 through July 1997.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None in the immediate future.

MAILING ADDRESS: Office of General Counsel
Smithsonian Institution
MRC 012
Washington, DC 20560

CONTACT PERSON: Rachelle V. Browne
Assistant General Counsel

TELEPHONE: 202-633-9207

FACSIMILE: 202-357-4310

E-MAIL: rabrowne@ogc.si.edu

WEBSITE: www.smithsonian.edu

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: See the *Copyright Corner* Intranet site and the column described above.

SOCIETY FOR MUSIC THEORY (SMT)

DESCRIPTION AND MISSION: The Society for Music Theory (SMT) was founded in 1977, to foster the development of all aspects of the discipline of music theory. It comprises a community of scholars and teachers who share the goal of achieving the highest standards in research, creativity, and teaching. Members of SMT benefit from the publications of our official print journal, *Music Theory Spectrum* (two volumes per year), our *Newsletter* (appearing each year in February and August), and our electronic journal, *Music Theory Online*. Each year the SMT sponsors a national conference, generally held every other year, in conjunction with the American Musicological Society.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: None.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: None.

MAILING ADDRESS: SMT
c/o Janet Schmalfeldt
Tufts University Department of Music
residence address: 3 Cliff Street
Arlington, MA 02476

CONTACT PERSON: Janet Schmalfeldt

TELEPHONE: 781-641-3317

FACSIMILE: 617-627-3967 (Department of Music, Tufts University)

E-MAIL: jschmalf@emerald.tufts.edu

WEBSITE: SMT homepage: <<http://smt.ucsb.edu/smt-list/smithome.html>>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

SOFTWARE PUBLISHERS ASSOCIATION (SPA)

DESCRIPTION: The Software Publishers Association (SPA) is the leading trade association committed to promoting and protecting the interests of the personal computer software industry. With offices in Washington, D.C. and Beijing, and operations in Europe, Southeast Asia, and Latin America, SPA represents more than 1100 members. In addition to those that develop software for business and entertainment, hundreds of SPA members provide instructional software to schools, colleges, and universities.

MISSION & PROGRAMS: Since 1985, SPA has conducted a comprehensive program of education, legal enforcement, and public policy to fight the grave problem of software piracy, which in 1997 accounted for over \$2.5 billion in lost revenues in the U.S. alone, and over \$11 billion in lost revenues worldwide.

Education. SPA conducts a comprehensive education program in the U.S. and other countries that provides tools for respecting copyright in software. *The SPA Higher Education Initiative* informs faculty, administration, and students about legal and appropriate software use. *The Certified Software Manager (CSM™) Seminar* teaches software professionals how to use software effectively and comply with copyright law and software licenses. *The SPA Self-Audit Kit* includes software that enables organizations to manage their software inventory.

Legal Enforcement. SPA has taken legal action in over 2000 cases of piracy of software against businesses, governments, Internet sites, and even educational institutions in the U.S. and abroad. *The SPA Anti-Piracy Hotline* accepts reports of software piracy by telephone and e-mail, most of which are resolved through our *Corporate and Organizational Audit Program*. Since 1995, SPA has conducted our *International Anti-Piracy Program* in key foreign countries, and we now operate our *Internet Anti-Piracy Campaign* in the U.S. and abroad.

Public Policy and Educational Technology Funding. SPA works to promote adequate and effective protection and enforcement of intellectual property in software on the Internet and around the world. SPA was a leading participant in the *Conference on Fair Use (CONFU)*, and was instrumental in the negotiation of the *1996 WIPO Copyright Treaty*, and its implementation by the U.S. Congress and the European Union. SPA also works with federal and state government to ensure that schools and colleges have enough funds to invest in educational software.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS:

Selected Bibliography

Outreach and Resources. *Software Management and Anti-Piracy* is a presentation available to all companies, organizations and groups who seek to promote the legal use of software. *The SPA Higher Education Initiative* can be viewed on-line at <http://www.spa.org/piracy/highered/>. *SPA's Recommended University Computer Usage Policy* suggests alternatives for managing computer use on campus. *SPAudit®* software is a computer program inventory management program. The *SPA Anti-Piracy Button* helps members, corporations, and Internet site operators send the message that software piracy is against the law. *Online Law* is a comprehensive guide to key legal issues regarding on-line activities, including copyrights, libel, and objectionable conduct.

Videotapes. In *A Shared Set of Values*, produced jointly by SPA and the American Association of Publishers, college students, faculty and copyright owners discuss the law and ethics of copying books and software. In *Don't Copy That Floppy*, junior high and high school students discuss why it is unfair to copy computer games. In *It Could Have Been So Easy*, office managers learn the hard way that it is illegal to copy software.

MAILING ADDRESS: Software Publishers Association
1730 M Street, NW, Suite 700
Washington, DC 200036-4510

CONTACT PERSON: Mark Traphagen, Vice President & Counsel
Intellectual Property & Trade Policy

TELEPHONE: 202-452-1600 ext. 322

FACSIMILE: 202-223-8756

E-MAIL: mtrahagen@spa.org

WEBSITE: www.spa.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: See above.

SPECIAL LIBRARIES ASSOCIATION (SLA)

DESCRIPTION: Headquartered in Washington, D.C., the Special Libraries Association (SLA) is the international association representing the interests of nearly 15,000 information professionals in 60 countries. Special librarians are information resource experts who collect, analyze, evaluate, package and disseminate information to facilitate accurate decision-making in corporate, academic, and government settings. The Association offers myriad programs and services designed to help its members serve their customers more effectively and succeed in an increasingly challenging environment of information management and technology. SLA is committed to the professional growth and success of its membership.

MISSION: The mission of the SLA is to advance the leadership role of SLA members in putting knowledge to work for the benefit of decision-makers in corporations, government, the professions, and society as well as to shape the destiny of our information and knowledge-based society.

COPYRIGHT AND/OR FAIR USE-RELATED PROGRAMS/PROJECTS: SLA is very active in educating its membership on existing and potential copyright legal matters. This is accomplished through conference programs, continuing education, and government relations activities. SLA also coordinates activities with other major library associations worldwide. For example, several library organizations in the U.S. joined SLA in producing a brochure entitled, *Principles for Licensing Electronic Information*, which is intended to protect library rights in licensing negotiations.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR USE: SLA will continue to seek new methods for educating the librarians and information professionals of the world concerning copyright management and use of intellectual property according to the laws of their respective nations. Of particular interest are distance learning and other continuing education projects which will allow members to learn more about the impact of copyright law in a cost-effective manner.

LEAD CONTACT: Sarah Wiant, Director of Law Library and Professor of Law
Washington and Lee University, Lewis Hall
Lexington, VA 24450
Tel. (540) 463-8540 - Fax: (540) 463-8967
E-mail: swiant@wlu.edu

HQ CONTACT: John Crosby
1700 18th Street, NW, Washington, DC 20009-2514
Tel. (202) 234-4700 - Fax: (202) 265-9317
E-mail: john-c@sla.org

WEBSITE: www.sla.org

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES: None.

UNITED STATES COPYRIGHT OFFICE

DESCRIPTION: The U.S. Copyright Office provides expert assistance to Congress on copyright matters; advises Congress on anticipated changes in U.S. copyright law; analyzes and assists in the drafting of copyright legislation and legislative reports; undertakes studies for Congress; offers advice to Congress on compliance with multilateral agreements such as the Berne Convention for the Protection of Literary and Artistic Works; works with the State Department, the Office of the U.S. Trade Representative, and the Patent and Trademark Office in providing technical expertise in negotiations for international intellectual property agreements; provides technical assistance to other countries in developing their own copyright laws; and through its International Copyright Institute, promotes worldwide understanding and cooperation in providing protection for intellectual property.

The Copyright Office is also an office of record, a place where claims to copyright (and mask works) are registered and where documents relating to copyright (and mask works) may be recorded when the requirements of the copyright code are met. The Copyright Office furnishes information about the provisions of the copyright code and the procedures for making registration, explains the operations and practices of the Copyright Office, and reports on facts found in the public records of the Office. The Office also administers various compulsory licensing provisions of the law, which include collecting royalties. Additionally, the Copyright Office and the Library of Congress administer the Copyright Arbitration Royalty Panels, which meet for limited times for the purpose of adjusting rates and distributing royalties.

MISSION: The U.S. Copyright Office's mission is to promote creativity in society by administering the Copyright Law and the Semiconductor Chip Protection Act; creating and maintaining the public record through registration of claims and recordation of documents and statutory obligations, including those related to compulsory licenses; supporting the Copyright Arbitration Royalty Panel system; providing technical assistance to Congress; providing information services to the public; serving as a resource to the domestic and international copyright communities; and supporting the Library of Congress by obtaining and making available hundreds of thousands of books, journals, motion pictures, sound recordings, CDs, CD-ROMs, maps and other library materials for its collections resulting in annual savings of millions of dollars in funds for purchase of library materials.

COPYRIGHT INFORMATION & SERVICES: The Information and Reference Division of the U.S. Copyright Office provides public information and reference services concerning copyrights. It responds to all copyright information and reference requests from the public and requests for Copyright Office copyright application forms and publications (including a wide range of informational circulars, form letters, announcements, regulations and miscellaneous publications); implements the information and publications programs of the Copyright Office, including the audiovisual and exhibit programs of the Copyright Office; provides assistance and information to visitors to the Copyright Office; conducts tours of the Copyright Office and supplies speakers to organizations and groups requesting an overview of copyright and the Copyright Office; conducts searches of Copyright Office records, reports on the copyright facts of registrations and recordations, assists visitors to the Office in using the public records of the Copyright Office; furnishes search reports based on Copyright Office records; prepares certifications and other legal documents; answers requests for additional certificates of registration, certified and uncertified copies of Office records, and, when authorized, certified and uncertified copies of deposits; makes available for public inspection deposits and other records of the Office; administers the Freedom of Information and Privacy Acts; and preserves and maintains copyright-related records.

FUTURE INFORMATION RELATING TO COPYRIGHT OR FAIR USE:

☐ **Copyright application forms, announcements and circulars:**

If you know the copyright forms or information circulars you wish, they may be ordered 24 hours a day on the Copyright Office Forms Hotline at 202-707-9100. If you need specific information, call 202-707-3000, or write: Publications Section, U.S. Copyright Office, 101 Independence Ave, SE, Library of Congress, Washington, DC 20559-6000. Special announcements, recent developments, information circulars and application forms are also available for viewing and downloading from the Copyright Office website at: <<http://www.loc.gov/copyright>>.

☐ **U.S. Copyright Office NewsNet:** The Copyright Office offers a free electronic mailing list with periodic email messages to alert subscribers to hearings, new publications, new and proposed regulations and other copyright-related subjects of interest. To subscribe, send a message to: LISTSERV@RS8.LOC.GOV [say in body of message: SUBSCRIBE USCOPYRIGHT].

☐ **Fax-on-Demand:** Call 202-707-2600 from a touch-tone phone to order selected U.S. Copyright Office circulars and announcements by publication number to be faxed on request.

GENERAL INFORMATION ADDRESS:

U.S. Copyright Office
Public Information Office
Madison Building, LM-401
Library of Congress
101 Independence Avenue, SE
Washington, DC 20540-6007

TELEPHONE: 202-707-3000 **TTY:** 202-707-6737 8:30am-5:00pm (Mon-Fri, EST)

FACSIMILE: 202-707-6859

CONFU CONTACT PERSON:

Mary Levering
Associate Register for National Copyright Programs
Telephone: 202-707-8350 Facsimile: 202-707-8366

E-MAIL: mlev@loc.gov

WEBSITES: <http://www.loc.gov/copyright>
gopher: [marvel.loc.gov](gopher://marvel.loc.gov)
telnet: [locis.loc.gov](telnet://locis.loc.gov)

VISUAL RESOURCES ASSOCIATION (VRA)

DESCRIPTION: The Visual Resources Association is a professional association devoted to the study of visual materials--their history, production, conservation, classification, and accessibility. International membership includes slide and photograph curators; electronic media professionals; film and video librarians; photo archivists; slide, microfilm, and digital image producers; rights and reproduction officials; photographers; art historians; and others concerned with visual materials. VRA is dedicated to informing its members of developments in the field by keeping them up-to-date on the latest equipment, technology, and supplies, as well as on copyright issues, cataloging standards, and new publications.

MISSION: VRA is established to further research and education in the visual resources profession and to promote a spirit of cooperation among the members of the profession. The purposes of this Association are to establish a continuing forum for communication of information and ideas, and for the advancement of matters of mutual interest to the membership.

COPYRIGHT AND/OR FAIR USE RELATED PROGRAMS/PROJECTS: VRA is a member of the National Initiative for a Networked Cultural Heritage and Digital Future Coalition. VRA participated in the College Art Association's Town Hall Meetings on Fair Use, and sponsored sessions on Fair Use and Copyright as part of VRA Annual Conferences in 1996 and 1997. VRA is an affiliated society of the College Art Association and the Art Libraries Society of North America, both of which deal with copyright and fair use issues on a continuing basis.

FUTURE PLANNED INITIATIVES/PROJECTS RELATING TO COPYRIGHT OR FAIR

USE: Currently developing statements on copyright policy and copy photography.

CONTACTS:

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Curator, Visual Resources Collections
Institute of Fine Arts, New York University
1 East 78th Street, New York, NY 10021
Tel. 212-772-5872 - Fax 212-772-5807
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Kathe Hicks Albrecht, Co-Chair
VRA Intellectual Property Rights Committee
Curator, Visual Resources Collection, Department of Art
American University
4400 Massachusetts Avenue, NW, Washington, DC 20016
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Virginia Hall, Co-Chair, VRA Intellectual Property Rights Committee
Curator, Slide Collection, Department of History of Art
Johns Hopkins University
256 Mergenthaler Hall, Baltimore, MD 21218-2685
Tel. 410-516-7122 - Fax 410-516-5188
e-mail: hall_vmg@jhunix.hcf.jhu.edu

WEBSITE:

<http://www.vra.oberlin.edu>

PUBLICATIONS ON COPYRIGHT AND EDUCATIONAL AND LIBRARY FAIR USE ISSUES:

-*VRA Bulletin* (Quarterly publication) Editor: John Taormina, Ohio State University

-*Visual Resources, An International Journal of Documentation*, volume XII, Number 3-4: "Copyright and Fair Use, The Great Image Debate," Gordon and Breach, the Netherlands, 1997.

-Albrecht, K. H., "Educational Use of Networked Museum Information," *Spectra* (v.25, number 2), Winter 1997/98, Museum Computer Network.

-VRA Listserv (electronic mail bulletin board for the exchange of ideas, questions and comments)
LISTSERV Moderator: Chris Hilker, University of Arkansas



PENN STATE UNIVERSITY LIBRARIES



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